

# **CONSTITUTION AMENDMENT IN INDIA**

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## PREFACE

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The Constitution of a country is the fundamental law of governance. It guarantees dignified existence to all its citizens within the legal framework. We have had the benefit of a galaxy of visionaries who were definitive about the path we should chart out for ourselves and were fully conscious of the enormity of the task involved in drafting the Constitution for a new born nation. It is due to their sagacity and statesmanship that special provisions for ‘amendment to the Constitution’ were incorporated in the Constitution. These provisions enabled Parliament to amend periodically the Constitution to meet the changing needs of the time.

In our Constitution, Parliament has been empowered to amend any provision in compliance with the procedure laid down in article 368. Besides procedural limitations under article 368, the Supreme Court has, by judicial innovation, enunciated the ‘Basic Structure Doctrine’, *i.e.*, if a Constitution amendment seeks to alter, take away or destroy the basic structure or framework of the Constitution, the Court has the power to declare it void or *ultra vires*. The basic features are not finite and have been spelt out in different rulings, with the Supreme Court itself asserting that the claim of any particular feature of the Constitution to be a basic feature would be determined by the Court in each case that comes before it.

During the span of more than five and a half decades, our Constitution has been amended ninety-four times. The positive outcome of such amendments is evident from the few provisions like insertion of equal justice and free legal aid; advancement of socially and educationally backward classes through protective discrimination; a separate chapter on Fundamental Duties of the citizens; lowering of the voting age from 21 to 18 years; insertion of Ninth Schedule; inclusion of Tenth Schedule safeguarding the political process against defection; strengthening democracy at the grass-roots level with

reservation for women, etc., by way of inclusion of Eleventh and Twelfth Schedules. All these changes have significantly contributed towards building an egalitarian society.

This Publication is a well-documented study on the nature, scope and working of the Constitution amending process in our country during the last fifty-seven years. The present Edition is the Seventh in the series which started in 1957 and evolved subsequently in 1962, 1965, 1974, 1986 and 1995. With a view to making the Publication more user-friendly, this time, Chapters II and III have been merged in order to provide information at one place concerning the Objects and Reasons; Legislative History; and Synopsis of Important Provisions of each Amendment Act. Another new addition is the inclusion of column 4 in Annexure (C) showing the provisions of the Constitution amended by the Amendment Acts from the First to the Ninety-fourth. The said column aims at giving in brief the purpose of the amendment in case of each Article/Schedule amended so far.

Besides, the Publication includes an Introductory Chapter I; Chapter III (earlier Chapter IV) relating to Legislative History of the Constitution Amendment Bills—Removed, Lapsed, Withdrawn or Negated; Annexures (A) and (B) giving the Texts of the Constitution Amendment Acts (First to Ninety-fourth) and the Texts of the Constitution Amendment Bills—Removed, Lapsed, Withdrawn or Negated; Annexure (C) showing the provisions of the Constitution amended by the Constitution Amendment Acts (First to Ninety-fourth); Annexure (D) showing the Constitution Amendment Bills—Passed, Removed, Lapsed, Withdrawn, Negated, Not Introduced or Pending; and Annexure (E) giving the entire Text of the Constitution as adopted by the Constituent Assembly.

I take this opportunity to thank the Associate Editors, Shri M. Rajagopalan Nair, Additional Secretary and Shri N.K. Sapra, Joint Secretary; Assistant Editors, Km. Manju Jain and Shri B. Phani Kumar, Joint Directors-II, for their efforts in bringing out this Publication. I also wish to thank Shri Satyavijay Ram, Research Officer, and Smt. Indumathy K. Vishwanath, Senior Library Assistant, for their dedicated and sincere assistance in facilitating this project.

(v)

We hope, the Publication would prove to be a reliable source of information regarding various aspects of amendments to the Constitution and would be found useful by parliamentarians, academicians, legal community and all those interested in the working of the Constitution.

NEW DELHI  
*February, 2008*

P.D.T. ACHARY  
*Secretary-General  
Lok Sabha*

# I

## CONSTITUTION AMENDMENT *Nature and Scope of the Amending Process*

The Constitution of a country is the fundamental law of the land—the basis on which all other laws are made and enforced. It has been described as a “superior or supreme law”<sup>1</sup> with “perhaps greater efficiency and authority”, and “higher sanctity”<sup>2</sup>, and more permanence than ordinary legislation. Nevertheless, an adequate provision of its amendment is considered implicit in the very nature of a Constitution. A democratic Constitution has to be particularly responsive to changing conditions, since a Government founded on the principle of popular sovereignty, “must make possible the fresh assertion of the popular will as that will change”<sup>3</sup>.

### *Rigid or Flexible Constitution*

Constitutions are usually classified as ‘flexible’ or ‘rigid’ depending upon the process through which they can be amended. Prof. A.V. Dicey defines two types of Constitutions—the flexible as ‘one under which every law of every description can legally be changed with the same ease and in the same manner by one and the same body’, and the rigid Constitutions as ‘one under which certain laws generally known as constitutional or fundamental laws, cannot be changed in the same manner as ordinary laws’<sup>4</sup>.

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<sup>1</sup> K.C. Wheare: *Modern Constitutions*, London, 1951, p. 91; Also see Haward Lee Mc. B. in: *The Living Constitution*, New York, 1948, pp. 7-10.

<sup>2</sup> J. Quick and B.R. Garran: *The Annotated Constitution of the Australian Commonwealth*, Sydney, 1991, p. 316.

<sup>3</sup> *Encyclopaedia of Social Sciences*, New York, 1951, Vol. II, p. 21.

<sup>4</sup> A.V. Dicey: *Introduction to the Study of the Law of the Constitution*, London, 1952, p. 127.

The United Kingdom having an unwritten Constitution, is the best example of an extremely flexible Constitution as there is no distinction between the legislative power and the constituent power. The British Parliament has the power to change the Constitution by the ordinary process of legislation. As opposed to the U.K. system, the constitutional amendment has an important place under a written Constitution like that of the U.S.A. Its importance increases where the system is Federal. In most of the written Constitutions, the power to amend the Constitutions is either vested in a body other than the ordinary Legislature or it is vested in the ordinary Legislature, subject to a special procedure. In a Federal system, additional safeguards like the involvement of Legislatures at the State level, are also provided for with a view to ensure that the Federal set-up does not get altered only at the will of the Federal Legislature.

#### *Need for Flexibility in the Constitution*

Explaining why it was necessary to introduce an element of flexibility in the Constitution, Pandit Jawaharlal Nehru observed in the Constituent Assembly:

While we want this Constitution to be as solid and as permanent a structure as we can make it, nevertheless there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop a nation's growth, the growth of a living, vital, organic people. Therefore, it has to be flexible.... In any event, we should not make a Constitution, such as some other great countries have, which are so rigid that they do not and cannot be adapted easily to changing conditions. Today especially, when the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow. Therefore, while we make a Constitution which is sound and as basic as we can, it should also be flexible....<sup>5</sup>

#### *Constituent Assembly and the Constitution Amendment in India*

The makers of the Indian Constitution were neither in favour of the traditional theory of Federalism, which entrusts the task of constitutional

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<sup>5</sup> C.A. Deb., Vol. VII, 8 November 1948, pp. 322-323.

amendment to a body other than the Legislature, nor in prescribing a rigid special procedure for such amendments. Similarly, they never wanted to have an arrangement like the British set-up where the Parliament is supreme and can do everything that is humanly possible. Adopting the combination of the ‘theory of fundamental law’, which underlies the written Constitution of the United States with the ‘theory of parliamentary sovereignty’ as existing in the United Kingdom, the Constitution of India vests constituent power upon the Parliament subject to the special procedure laid down therein.

During the discussion in the Constituent Assembly on this aspect, some of the members were in favour of adopting an easier mode of amending procedure for the initial five to ten years. Dr. P.S. Deshmukh was of the view that the amendment of the Constitution should be made easier as there were contradictory provisions in some places which would be more and more apparent when the provisions are interpreted. If the amendment to the Constitution was not made easy, the whole administration would suffer. Shri Brajeshwar Prasad was also in favour of a flexible Constitution so as to make it survive the test of time. He was of the opinion that rigidity tends to check progressive legislation or gradual innovation.

On the other hand, Shri H.V. Kamath was in favour of providing for procedural safeguards to avoid the possibility of hasty amendment to the Constitution<sup>6</sup>.

Dr. B.R. Ambedkar, speaking in the Constituent Assembly on 4 November 1948, made certain observations in connection with the provisions relating to amendment of the Constitution. He said:

It is said that the provisions contained in the Draft make amendment difficult. It is proposed that the Constitution should be amendable by a simple majority at least for some years. The argument is subtle and ingenious. It is said that this Constituent Assembly is not elected on adult suffrage while the future Parliament will be elected on adult suffrage and yet the former has been given the right to pass the Constitution by a simple majority while the latter

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<sup>6</sup> *Ibid.*, Vol. IX, 17 September 1949, pp. 1644-1667.

has been denied the same right. It is paraded as one of the absurdities of the Draft Constitution. I must repudiate the charge because it is without foundation. To know how simple are the provisions of the Draft Constitution in respect of amending the Constitution one has only to study the provisions for amendment contained in the American and Australian Constitutions. Compared to them those contained in the Draft Constitution will be found to be the simplest. The Draft Constitution has eliminated the elaborate and difficult procedures such as a decision by a convention or a referendum.... It is only for amendments of specific matters—and they are only few—that the ratification of the State Legislatures is required. All other Articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less than two-thirds of the members of each House present and voting and a majority of the total membership of each House. It is difficult to conceive a simpler method of amending the Constitution.

What is said to be the absurdity of the amending provisions is founded upon a misconception of the position of the Constituent Assembly and of the future Parliament elected under the Constitution. The Constituent Assembly in making a Constitution has no partisan motive. Beyond securing a good and workable Constitution it has no axe to grind. In considering the Articles of the Constitution it has no eye on getting through a particular measure. The future Parliament if it met as Constituent Assembly, its members will be acting as partisans seeking to carry amendments to the Constitution to facilitate the passing of party measures which they have failed to get through Parliament by reason of some Article of the Constitution which has acted as an obstacle in their way. Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament. That explains why the Constituent Assembly though elected on limited franchise can be trusted to pass the Constitution by simple majority and why the Parliament though elected on adult suffrage cannot be trusted with the same power to amend it<sup>7</sup>.

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<sup>7</sup> *Ibid*, Vol. VII, 4 November 1948, pp. 43-44.

*Procedure for Constitution Amendment in India*

The Constitution of India provides for a distinctive amending process as compared to the leading Constitutions of the world. It may be described as partly flexible and partly rigid. The Constitution of India provides for a variety in the amending process—a feature which has been commended by Prof. K.C. Wheare for the reason that uniformity in the amending process imposes “quite unnecessary restrictions” upon the amendment of parts of a Constitution<sup>8</sup>.

The Constitution of India provides for three categories of amendments<sup>9</sup>. Firstly, those that can be effected by Parliament by a simple majority such as that required for the passing of any ordinary law—the amendments contemplated in articles 4<sup>10</sup>, 169<sup>11</sup>, para 7(2)<sup>12</sup>

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<sup>8</sup> Prof. Wheare: *op. cit.*, p. 143.

<sup>9</sup> *Shankari Prasad vs. Union of India*, A.I.R. 1951 S.C. 455.

<sup>10</sup> Article 4 provides that laws made by Parliament under article 2 (relating to admission or establishment of new States) and article 3 (relating to formation of new States and alteration of areas, boundaries or names of existing States) effecting amendments in the First Schedule or the Fourth Schedule and supplemental, incidental and consequential matters, shall not be deemed to be amendments of the Constitution for the purposes of article 368. Thus, for example, the States Reorganisation Act, 1956, which brought about reorganisation of the States in India, was passed by Parliament as an ordinary piece of legislation.

It has been held that power to reduce the total number of members of Legislative Assembly below the minimum prescribed under article 170 (1) is implicit in the authority to make laws under article 4 (*Mangal Singh vs. Union of India*, A.I.R. 1967 S.C. 944).

<sup>11</sup> Article 169 empowers Parliament to provide by law for the abolition or creation of the Legislative Councils in States and specifies that though such law shall contain such provisions for the amendment of the Constitution as may be necessary, it shall not be deemed to be an amendment of the Constitution for the purposes of article 368. The Legislative Councils Act, 1957 is an example of a law passed by Parliament in exercise of its powers under article 169. The Act provided for the creation of a Legislative Council in Andhra Pradesh and for increasing the strength of the Legislative Councils in certain other States.

<sup>12</sup> The Fifth Schedule contains provisions as to the administration and control of the Schedule Areas and Scheduled Tribes. Para 7 of the Schedule vests Parliament with plenary powers to enact laws amending the Schedule and lays down that no such law shall be deemed to be an amendment of the Constitution for the purposes of article 368.

of Schedule V and para 21(2)<sup>13</sup> of Schedule VI fall within this category and are specifically excluded from the purview of article 368 which is the specific provision in the Constitution dealing with the power and the procedure for the amendment of the Constitution; Secondly, those amendments that can be effected by Parliament by a prescribed ‘special majority’; and Thirdly, those that require, in addition to such ‘special majority’, ratification by at least one half of the State Legislatures. The last two categories being governed by article 368.

In this connection, it may also be mentioned that there are, as pointed out by Dr. Ambedkar, “innumerable articles in the Constitution” which leave the matter subject to law made by Parliament<sup>14</sup>. For example, under article 11, Parliament may make any provision relating to citizenship notwithstanding anything in article 5 to 10<sup>15</sup>. Thus, by passing ordinary laws, Parliament may, in effect, provide, modify or annul the operation of certain provisions of the Constitution without actually amending them within the meaning of article 368. Since such laws do not in fact make any change whatsoever in the letter of the Constitution, they cannot be regarded as amendments of the Constitution nor categorised as such.

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<sup>13</sup> Under Para 21 (Sixth Schedule), Parliament has full power to enact laws amending the Sixth Schedule which contains provisions for the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram. No such law, however, is to be deemed to be an amendment of the Constitution for the purposes of article 368.

<sup>14</sup> *C.A. Deb.*, Vol. IX, 17 September 1949, p. 1660.

<sup>15</sup> Other examples include Part XXI of the Constitution—“Temporary, Transitional and Special Provisions” whereby “Notwithstanding anything in this Constitution” power is given to Parliament to make laws with respect to certain matters included in the State List (article 369); article 370 (1) (d) which empowers the President to modify, by order, provisions of the Constitution in their application to the State of Jammu and Kashmir; provisos to articles 83 (2) and 172 (1) empower Parliament to extend the lives of the House of the People and the Legislative Assembly of every State beyond a period of five years during the operation of a Proclamation of Emergency; and articles 83(1) and 172 (2) provide that the Council of States/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.

In so far as the constituent power to make formal amendments is concerned, it is article 368 of the Constitution of India which empowers Parliament to amend the Constitution by way of addition, variation or repeal of any provision according to the procedure laid down therein, which is different from the procedure for ordinary legislation. Article 368, which has been amended by the Constitution (Twenty-fourth Amendment), Act, 1971<sup>16</sup> and the Constitution (Forty-second Amendment) Act, 1976, reads as follows:

*368 : Power of Parliament to amend the Constitution and Procedure therefor:*

- (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.
- (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

<sup>16</sup> Before its amendment by the 24<sup>th</sup> Amendment Act and 42<sup>nd</sup> Amendment Act, article 368 stood as follows: *Art 368, Procedure for amendment of the Constitution:*

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

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

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

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

House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

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

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

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States<sup>17</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.

- (3) Nothing in article 13<sup>18</sup> shall apply to amendment made under this article.
- (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

<sup>17</sup> The words and letters “specified in Part A and B of the First Schedule” were omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule.

<sup>18</sup> Clause 3 was inserted by the Constitution (Twenty-fourth Amendment) Act, 1971 which also added a new clause (4) in article 13 which reads, “Nothing in this article shall apply to any amendment of this Constitution made under article 368”.

\* Clauses (4) and (5) were inserted in the article by the Constitution (Forty-second Amendment) Act, 1976 *vide* section 55. This section has since been declared invalid by the Supreme Court in *Minerva Mills Ltd. and others vs. Union of India and other* (1980) 2 S.C.C. 591.

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.

An analysis of the procedure prescribed by article 368 for amendment of the Constitution shows that:

- (i) an amendment can be initiated only by the introduction of a Bill in either House of Parliament;
- (ii) the Bill so initiated must be passed in each House by a majority of the total membership<sup>19</sup> of that House and by a majority of not less than two-thirds of the members of that House present and voting<sup>20</sup>. There is no provision for a joint sitting in case of disagreement between the two Houses;
- (iii) when the Bill is so passed, it must be presented to the President who shall give his assent to the Bill;
- (iv) where the amendment seeks to make any change in any of the provisions<sup>21</sup> mentioned in the proviso to article 368, it must

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<sup>19</sup> Total membership in this context has been defined to mean the total number of members comprising the House irrespective of any vacancies or absentees on any account *vide* Explanation to Rule 159 of the Rules of Procedure and Conduct of Business in Lok Sabha.

<sup>20</sup> “Abstentions” in any voting are not taken into consideration in declaring the result of any question. A member who votes “abstention” either through the electronic vote recorder or on a voting slip or in any manner, does so only to indicate his presence in the House and his intention to abstain from voting; he does not record his vote within the meaning of the words “present and voting”. The expression, “present and voting” refers to those who vote for “ayes” and for “noes” *Lok Sabha Rules Committee Minutes*, dated 8-9 September 1970, (*Practice and Procedure of Parliament, 2001*, by M.N. Kaul and S.L. Shakdher, p. 604).

<sup>21</sup> These provisions relate to certain matters concerning the federal structure or of common interest to both the Union and the States *viz.*,

- (a) the election of the President (articles 54 and 55);
- (b) extent of the executive power of the Union and the States (articles 73 and 162);
- (c) High Courts for Union territories (article 241);
- (d) The Union Judiciary and the High Courts in the States (Chapter IV of Part V and Chapter V of Part VI);
- (e) distribution of legislative powers between the Union and the States (Chapter I of Part XI and Seventh Schedule);
- (f) representation of States in Parliament; and
- (g) the provision for amendment of the Constitution laid down in article 368.

- be ratified<sup>22</sup> by the Legislatures of not less than one-half of the States;
- (v) such ratification is to be by resolution passed by the State Legislatures;
  - (vi) no specific time limit for the ratification of an amending Bill by the State Legislatures is laid down; the resolutions ratifying the proposed amendment should, however, be passed before the amending Bill is presented to the President for his assent<sup>23</sup>;

<sup>22</sup> The Constitution (Third Amendment) Act, 1954; the Constitution (Sixth Amendment) Act, 1956; the Constitution (Seventh Amendment) Act, 1956; the Constitution (Eighth Amendment) Act, 1960; the Constitution (Thirteenth Amendment) Act, 1962; the Constitution (Fourteenth Amendment) Act, 1962; the Constitution (Fifteenth Amendment) Act, 1963; the Constitution (Sixteenth Amendment) Act, 1963; the Constitution (Twenty-second Amendment) Act, 1969; the Constitution (Twenty-third Amendment) Act, 1969; the Constitution (Twenty-fourth Amendment) Act, 1971; the Constitution (Twenty-fifth Amendment) Act, 1971; the Constitution (Twenty-eighth Amendment) Act, 1972; the Constitution (Thirtyith Amendment) Act, 1972; the Constitution (Thirty-first Amendment) Act, 1973; the Constitution (Thirty-second Amendment) Act, 1973; the Constitution (Thirty-fifth Amendment) Act, 1974; the Constitution (Thirty-sixth Amendment) Act, 1975; the Constitution (Thirty-eighth Amendment) Act, 1975; the Constitution (Thirty-ninth Amendment) Act, 1975; the Constitution (Forty-second Amendment) Act, 1976; the Constitution (Forty-third Amendment) Act, 1977; the Constitution (Forty-fourth Amendment) Act, 1978; the Constitution (Forty-fifth Amendment) Act, 1980; the Constitution (Forty-sixth Amendment) Act, 1982; the Constitution (Fifty-first Amendment) Act, 1984; the Constitution (Fifty-fourth Amendment) Act, 1986; the Constitution (Sixty-first Amendment) Act, 1988; the Constitution (Sixty-second Amendment) Act, 1989; the Constitution (Seventieth Amendment) Act, 1992; the Constitution (Seventy-third Amendment) Act, 1992; the Constitution (Seventy-fourth Amendment) Act, 1992; the Constitution (Seventy-fifth Amendment) Act, 1994; the Constitution (Seventy-ninth Amendment) Act, 1999; the Constitution (Eighty-fourth) Act, 2001; the Constitution (Eighty-eighth Amendment) Act, 2003 were thus all ratified by the State Legislatures after they were passed by both Houses of Parliament before they were presented to the President for assent.

<sup>23</sup> With regard to the corresponding provision in the U.S. Constitution *viz.* Article V which also does not prescribe any time limit for ratification, the U.S. Supreme Court has held that the ratification must be within a reasonable time after the proposal (*Dillon vs. Gloss* 65, Law Ed. 9945) but that the Court has no power to determine what is a reasonable time (*Coleman vs. Miller*; 83, Law Ed. 1385). It has further held that the question of efficacy of ratifications by State Legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of amendment (*Coleman vs. Miller*; 83, Law Ed. 1385).

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- (vii) the Constitution can be amended: (1) only by Parliament; and (2) in the manner provided. Any attempt to amend the Constitution by a Legislature other than Parliament and in a manner different from that provided for will be void and inoperative<sup>24</sup>.

Whether the entire Constitution Amendment is void for want of ratification or only an amended provision required to be ratified under proviso to clause (2) of article 368, is a very significant point. In a case decided in 1992, this issue was debated before the Supreme Court in what is now popularly known as Anti-Defection case<sup>25</sup>, in which the constitutional validity of the Tenth Schedule of the Constitution inserted by the Constitution (Fifty-second Amendment) Act, 1985 was challenged. In this case, the decisions of the Speakers/Chairmen on disqualification, which had been challenged in different High Courts through different petitions, were heard by a five-member Constitution Bench of the Supreme Court. The Constitution Bench in its majority judgement upheld the validity of the Tenth Schedule but declared Paragraph 7 of the Schedule invalid because it was not ratified by the required number of the Legislatures of the States as it brought about in terms and effect, a change in articles 136, 226 and 227 of the Constitution. While doing so, the majority treated Paragraph 7 as a severable part from the rest of the Schedule. However, the minority of the Judges held that the entire Constitution Amendment Act is invalid for want of ratification.

#### *Legislative Procedure and Constitution Amendment*

Article 368 is not a “complete code” in respect of the legislative procedure to be followed at various stages. There are gaps in the procedure as to how and after what notice a Bill is to be introduced, how it is to be passed by each House and how the President’s assent is to be obtained<sup>26</sup>. This point was decided by the Supreme Court in the *Shankari Prasad*’s case. Delivering the judgment of the Court, Patanjali Sastri J. observed<sup>27</sup>:

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<sup>24</sup> *Abdul Rahiman Jamaluddin vs. Vithal Arjun*, A.I.R. 1958 Bombay, 94.

<sup>25</sup> *Kihota Hollohon vs. Zachilhu and others*, (1992) 1 S.C.C. 309.

<sup>26</sup> *Shankari Prasad Singh Deo vs. Union of India*, A.I.R. 1951 S.C. 458.

<sup>27</sup> *Ibid.*

Having provided for the constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules made by each House (article 118), the makers of the Constitution must be taken to have intended Parliament to follow that procedure, so far as it may be applicable consistently with the express provisions of article 368, when they entrusted to it power of amending the Constitution.

Hence, barring the requirements of special majority, ratification by the State Legislatures in certain cases, and the mandatory assent by the President, a Bill for amending the Constitution is dealt with the Parliament following the same legislative process as applicable to an ordinary piece of legislation.

In Lok Sabha, the Rules of Procedure and Conduct of Business make certain specific provisions with regard to Bills for amendment of the Constitution. They relate to: (a) the voting procedure in the House at various stages of such Bills, in the light of the requirements of article 368; and (b) the procedure before introduction in the case of such Bills, if sponsored by Private Members.

Although the ‘special majority’, insisted upon the article 368 is *prima facie* applicable only to the voting at the final stage, the Lok Sabha Rules prescribed adherence to this constitutional requirement at all the effective stages of the Bill, *i.e.*, for adoption of the motion that the Bill be taken into consideration; that the Bill as reported by the Select/Joint Committee be taken into consideration, in case a Bill has been referred to a Committee; for adoption of each clause or schedule or clause or schedule as amended, of a Bill; or that the Bill or the Bill as amended, as the case may be, be passed<sup>28</sup>. This provision, which represents the position arrived at after consultation with the Attorney-General and detailed discussions in the Rules Committee, is evidently *ex-abundanti cautela*. It not only ensures, by a strict adherence to article 368, the validity of the procedure adopted, but also guards against the possibility of violation of the spirit and scheme of that

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<sup>28</sup> Rules 155 and 157, *Rules of Procedure and Conduct of Business in Lok Sabha (Eleventh Ed.)* Lok Sabha Secretariat, New Delhi, 2004, p. 67.

article<sup>29</sup> by the consideration of a Bill seeking to amend the Constitution including its consideration clause by clause being concluded in the House with only the bare quorum present. Voting at all the above stages is by division<sup>30</sup>. The Speaker may, however, with the concurrence of the House, put any group of clauses or schedules together to the vote of the House, provided that if any member requests that any of the clauses or schedules be put separately, the Speaker shall comply to do so<sup>31</sup>. The Short Title, Enacting Formula and the Long Title may be adopted by a simple majority<sup>32</sup>. For the adoption of amendments to clauses or schedules of the Bill, a majority of members present and voting in the same manner as in the case of any other Bill, will suffice<sup>33</sup>.

A Bill for amendment of the Constitution by a Private Member is governed by the rules applicable to Private Members' Bills in general. So, the period of one month's notice applies to such a Bill also. In addition, in Lok Sabha, such a Bill has to be examined and recommended by the 'Committee on Private Members' Bills before it is included in the List of Business<sup>34</sup>. The Committee has laid down the following principles as guiding criteria in making their recommendations in regard to these Bills<sup>35</sup>:

- (i) The Constitution should be considered as a sacred document—a document which should not be lightly interfered with and it should be amended only when it is found absolutely necessary to do so. Such amendments may generally be brought forward when it is found that the interpretation of the various articles and provisions of the Constitution has not been in accordance with the intention behind such provisions and cases of lacunae or glaring inconsistencies have come to light. Such amendments

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<sup>29</sup> *Second Report of the Rules Committee*, April 1956, Lok Sabha Secretariat, New Delhi.

<sup>30</sup> Rule 158, *Rules of Procedure*, op.cit.

<sup>31</sup> Rule 155, *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Rule 156, *op. cit.*

<sup>34</sup> Rule 294, *op. cit.*

<sup>35</sup> *First Report of the Committee on Private Members' Bills*, December 1953, Lok Sabha Secretariat, New Delhi.

should, however, normally be brought by the Government after considering the matter in all its aspects and consulting experts, and taking such other advice as they may deem fit.

- (ii) Some time should elapse before a proper assessment of the working of the Constitution and its general effect is made so that any amendments that may be necessary are suggested as a result of sufficient experience.
- (iii) Generally speaking, notice of Bills from Private Members should be examined in the background of the proposal or measures which the Government may be considering at the time so that consolidated proposals are brought forward before the House by the Government after collecting sufficient material and taking expert advice.
- (iv) Whenever a Private Member's Bill raises issues of far-reaching importance and public interest, the Bill might be allowed to be introduced so that public opinion is ascertained and gauged to enable the House to consider the matter further. In determining whether a matter is of sufficient public importance, it should be examined whether the particular provisions in the Constitution are adequate to satisfy the current ideas and public demand at the time. In other words, the Constitution should be adapted to the current needs and demands of the progressive society and any rigidity which may impede progress should be avoided.

In Rajya Sabha, the Rules of the House do not contain special provisions with regard to Bills for amendment of the Constitution and the Rules relating to ordinary Bills apply, subject of course, to the requirements of article 368.

#### *Scope of Parliament's Power to Amend the Constitution*

Until the case of *L.C. Golak Nath vs. State of Punjab*<sup>36</sup>, the Supreme Court had been holding that no part of the Constitution was unamendable and that the Parliament might, by passing a Constitution Amendment Act in compliance with the requirements of article 368, amend any

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<sup>36</sup> A.I.R. 1967 S.C. 1643.

provision of the Constitution, including the Fundamental Rights and article 368<sup>37</sup>. But in *Golak Nath's case*, the Supreme Court (by a majority of 6:5) reserved its own earlier decisions.

In *Golak Nath's case*, the Court held that an amendment of the Constitution is a legislative process. A Constitution amendment under article 368 is "law" within the meaning of article 13<sup>38</sup> of the Constitution and therefore, if a Constitution amendment "takes away or abridges" a Fundamental Right conferred by Part III, it is void.

The Court was also of the opinion that Fundamental Rights included in Part III of the Constitution are given a transcendental position under the Constitution and are kept beyond the reach of Parliament. The incapacity of Parliament to modify, restrict or impair Fundamental Freedoms in Part III arises from the scheme of the Constitution and the nature of the freedoms.

As a result of the judgment of the Supreme Court in *Golak Nath's case*, the Parliament passed the Constitution (Twenty-fourth Amendment) Act, 1971. This Act has amended the Constitution to provide expressly that Parliament has power to amend any part of the Constitution including the provisions relating to Fundamental Rights. This has been done by amending articles 13 and 368 to make it clear that the bar in article 13 against abridging or taking away any of the

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<sup>37</sup> *In Shankari Prasad Singh Deo vs. The Union of India* (A.I.R. 1951 S.C. 458), the Supreme Court unanimously held: The terms of article 368 are perfectly general and empower Parliament to amend the Constitution without any exception whatever. In the context of article 13, "law" must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the Constitution made in exercise of constituent power, with the result that article 13 (2) does not affect amendments made under article 368.

*In Sajjan Singh vs. The State of Rajasthan* (A.I.R. 1965 S.C. 845), the Supreme Court (by a majority of 3:2) held: When article 368 confers on Parliament the right to amend the Constitution, the power in question can be exercised over all the provisions of the Constitution. It would be unreasonable to hold that the word "Law" in article 13 (2) takes in Constitution Amendment Acts passed under article 368.

<sup>38</sup> Article 13(2): The State shall not make any law which takes away or abridges the right conferred by this Part and any law made in contravention of this clause shall, to the extent of contravention, be void.

Fundamental Rights does not apply to Constitution amendment made under article 368.

*In His Holiness Kesavananda Bharati Sripadagalvaru vs. State of Kerala*<sup>39</sup>, the Supreme Court reviewed the decision in the *Golak Nath's case* and went into the validity of the 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> and 29<sup>th</sup> Constitution Amendments. The case was heard by the largest ever Constitution Bench of 13 Judges. The Bench gave eleven judgements, which agreed on some points and differed on others. Nine Judges *summed up* the 'Majority View' of the Court thus:

1. *Golak Nath's case* is over-ruled.
2. Article 368 does not enable Parliament to alter the basic structure or framework of the Constitution.
3. The Constitution (Twenty-fourth Amendment) Act, 1971 is valid.
4. Section 2(a) and 2(b) of the Constitution (Twenty-fifth Amendment) Act, 1971 is valid.
5. The first part of section 3 of the Constitution (Twenty-fifth Amendment) Act, 1971 is valid. The second part namely "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" is invalid.
6. The Constitution (Twenty-ninth Amendment) Act, 1971 is valid.

The majority of the Full Bench upheld the validity of the Constitution (Twenty-fourth Amendment) Act and overruled the decision of the *Golak Nath's case* holding that a Constitution Amendment Act is not "law" within the meaning of article 13. Upholding the validity of clause (4) of article 13 and a corresponding provision in article 368(3), inserted by the Twenty-fourth Amendment Act, the Court settled in favour of the view that Parliament has the power to amend the Fundamental Rights also. However, the Court affirmed another proposition also asserted in the *Golak Nath's case*. The Court held that the expression 'amendment' of this Constitution in article 368 means

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<sup>39</sup> A.I.R. 1973 S.C. 1461.

any addition or change in any of the provisions of the Constitution within the broad contours of the Preamble and the Constitution to carry out the objectives in the Preamble and the Directive Principles. Applied to Fundamental Rights, it would be that while Fundamental Rights cannot be abrogated, reasonable abridgement of Fundamental Rights could be effected in the public interest. The true position is that every provision of the Constitution can be amended provided the basic foundation and structure of the Constitution remains the same.

The theory of basic structure of the Constitution was reaffirmed and applied by the Supreme Court in *Smt. Indira Nehru Gandhi vs. Raj Narain case*<sup>40</sup> and certain amendments to the Constitution were held void<sup>41</sup>.

Subsequently, on the basis of the Court's view in *Kesavananda Bharati's case*, upholding the concept of the basic structure, the Supreme Court in *Minerva Mills Ltd. vs. Union of India*<sup>42</sup> declared section 55<sup>43</sup> of the Constitution (Forty-second Amendment) Act, 1976 as unconstitutional and void. It held:

Since the Constitution had conferred a limited amending power on the Parliament, the Parliament cannot under the exercise of that limited power enlarge that very power into an absolute power. Indeed, a limited amending power is one of the basic features of our Constitution and, therefore, the limitations on that power can not be destroyed. In other words, Parliament cannot, under

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<sup>40</sup> A.I.R. 1975 S.C. 2299.

<sup>41</sup> In this case, article 329 A inserted by the Constitution (Thirty-ninth Amendment) Act, 1975, came up for challenge. Article 329A put Prime Minister's and Lok Sabha Speaker's election outside the purview of the Judiciary and provided for determination of disputes concerning their elections by an authority to be set up by a Parliamentary law. The Supreme Court struck down clauses (4) and (5) of the article 329A which made the existing election law inapplicable to Prime Minister's and Speaker's election and declared the pending proceedings in respect of such elections null and void.

<sup>42</sup> A.I.R. 1980 S.C. 1789.

<sup>43</sup> Section 55 of the Constitution (Forty-second Amendment) Act, 1976 inserted sub clauses (4) and (5) in article 368 of the Constitution providing that there shall be no limitation on the constituent power of the Parliament and that the validity of any Constitution Amendment Act, including those amending the Part III, shall not be called in question in any court on any ground.

article 368, expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The donee of a limited power cannot by the exercise of that power convert the limited power into an unlimited one.

The concept of basic structure has since been developed by the Supreme Court in subsequent cases, such as *Waman Rao case*<sup>44</sup>, *Bhim Singhji case*<sup>45</sup>, *Transfer of Judges case*<sup>46</sup>, *S.P. Sampath Kumar's case*<sup>47</sup>, *P. Sambamurthy's case*<sup>48</sup>, *Kihota Hollohon case*<sup>49</sup>, *L. Chandra Kumar case*<sup>50</sup>, *P.V. Narasimha Rao case*<sup>51</sup>, *I.R. Coelho case*<sup>52</sup>, and *Cash for Query case*<sup>53</sup>.

The basic features of the Constitution are not finite. So far about 20 features<sup>54</sup> described ‘basic’ or ‘essential’ in numerous cases, have

<sup>44</sup> *Waman Rao vs. Union of India*, A.I.R. 1981 S.C. 271.

<sup>45</sup> *Bhim Singhji vs. Union of India*, A.I.R. 1981 S.C. 234.

<sup>46</sup> *S.P. Gupta vs. President of India*, A.I.R. 1982 S.C. 149.

<sup>47</sup> *S.P. Sampath Kumar vs. Union of India*, A.I.R. 1987 S.C. 386.

<sup>48</sup> *P. Sambamurthy vs. State of A.P.*, A.I.R. 1987 S.C. 663.

<sup>49</sup> *Kihota Hollohon vs. Zachilhu and others*, (1992) 1 S.C.C. 309.

<sup>50</sup> *L. Chandra Kumar vs. Union of India and others*, A.I.R. 1997 S.C. 1125.

<sup>51</sup> *P.V. Narasimha Rao vs. State (CBI/SPE)*, A.I.R. 1998 S.C. 2120.

<sup>52</sup> *I.R. Coelho vs. State of Tamil Nadu and others*, (2007) 2 S.C.C. 1.

<sup>53</sup> *Raja Ram Pal vs. The Hon'ble Speaker, Lok Sabha and others*, JT 2007 (2) S.C. 1.

<sup>54</sup> The basic features of the Constitution have not been explicitly defined by the Judiciary. However, Supremacy of the Constitution; Rule of law; The principle of Separation of Powers; The objectives specified in the Preamble to the Constitution; Judicial Review; Articles 32 and 226; Federalism; Secularism; The Sovereign, Democratic, Republican structure; Freedom and dignity of the individual; Unity and integrity of the Nation; The principle of equality, not every feature of equality, but the quintessence of equal justice; The ‘essence’ of other Fundamental Rights in Part III; The concept of social and economic justice—to build a Welfare State: Part IV in toto; The balance between Fundamental Rights and Directive Principles; The Parliamentary system of government; The principle of free and fair elections; Limitations upon the amending power conferred by Article 368; Independence of the Judiciary; Effective access to justice; Powers of the Supreme Court under Articles 32, 136, 141, 142; Legislation seeking to nullify the awards made in exercise of the judicial power of the State by Arbitration Tribunals constituted under an Act, etc., are termed as some of the basic features of the Constitution.

been incorporated in the list of basic structure. In *Indira Nehru Gandhi vs. Raj Narain* popularly known as Election case<sup>55</sup> and also in *Minerva Mills*<sup>56</sup> it has been observed that the claim of any particular feature of the Constitution to be a ‘basic’ feature would be determined by the Court in each case that comes before it.

The power and procedure for constitutional amendment in India has some special points of interest:

- (i) There is no separate constituent body for the purposes of amendment of the Constitution; constituent power also being vested in the Legislature.
- (ii) Although Parliament must preserve the basic framework of the Constitution, there is no other limitation placed upon the amending power, that is to say, there is no provision of the Constitution that cannot be amended.
- (iii) The role of the States in Constitution amendment is limited. The State Legislatures cannot initiate any Bill or proposal for amendment of the Constitution. They are associated in the process of Constitution amendment by the ratification procedure laid down in article 368 in case the amendment seeks to make any change in any of the provisions mentioned in the proviso to article 368. Besides, all that is open to them is (1) to initiate the process for creating or abolishing Legislative Councils in their respective Legislatures<sup>57</sup> and (2) to give their views on a proposed Parliamentary Bill seeking to affect the area, boundaries or name of any State or States which has been referred to them

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<sup>55</sup> A.I.R. 1975 S.C. 2299 (p. 2465, per Chandrachud J.).

<sup>56</sup> A.I.R. 1980 S.C. 1789 (Para 88, per Bhagwati J.).

<sup>57</sup> Article 169 (1): Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

under the proviso to article 3<sup>58</sup> a reference which does not fetter the power of Parliament to make any further amendments of the Bill<sup>59</sup>.

*Constitution Amendments (1950-2007): A Synoptic Review*

During the last fifty-seven years of its operation, the Constitution has been amended on ninety-four occasions: First—1951; Second—1952; Third—1954; Fourth and Fifth—1955; Sixth and Seventh 1956; Eighth and Ninth—1960; Tenth and Eleventh—1961; Twelfth, Thirteenth and Fourteenth—1962; Fifteenth and Sixteenth—1963; Seventeenth—1964; Eighteenth, Nineteenth and Twentieth—1966; Twenty-first—1967; Twenty-second and Twenty-third—1969; Twenty-fourth, Twenty-fifth, Twenty-sixth and Twenty-seventh—1971; Twenty-eighth, Twenty-ninth and Thirtieth—1972; Thirty-first and Thirty-second—1973; Thirty-third, Thirty-fourth and Thirty-fifth—1974; Thirty-sixth, Thirty-seventh, Thirty-eighth and Thirty-ninth—1975; Fortieth, Forty-first and Forty-second—1976; Forty-third—1977; Forty-fourth—1978; Forty-fifth—1980; Forty-sixth—1982; Forty-seventh, Forty-eighth, Forty-ninth, Fiftieth and Fifty-first—1984; Fifty-Second—1985; Fifty-third, Fifty-fourth and Fifty-fifth—1986; Fifty-sixth, Fifty-seventh and Fifty-eighth—1987; Fifty-ninth, Sixtieth and Sixty-first—1988; Sixty-second and Sixty-third—1989; Sixty-fourth, Sixty-fifth, Sixty-sixth and Sixty-seventh—1990; Sixty-eighth and Sixty-ninth—1991; Seventieth, Seventy-first, Seventy-second, Seventy-third and Seventy-fourth—1992; Seventy-fifth and Seventy-sixth—1994; Seventy-seventh and Seventy-eighth—1995; Seventy-ninth—1999; Eightieth, Eighty-first, Eighty-second and Eighty-third—2000; Eighty-fourth and Eighty-fifth—2001; Eighty-sixth—2002; Eighty-seventh, Eighty-eighth, Eighty-ninth, Ninetieth, Ninety-first and Ninety-second—2003; Ninety-third—2005; Ninety-fourth—2006.

<sup>58</sup> The proviso of article 3 provides that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States\*\*\*\*, the Bill has been referred by the President to the Legislature of the 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>59</sup> See Ruling by the Speaker in Lok Sabha—*L.S. Deb.*, (II) 7 August 1956. The same view was taken by the Supreme Court in *Babulal vs. State of Bombay* (A.I.R. 1960 S.C. 51).

## II

### **THE CONSTITUTION AMENDMENT ACTS (FIRST TO NINETY-FOURTH)**

*Objects and Reasons, Legislative History and Synopsis*

## I

### **THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951<sup>1</sup>**

#### *Objects and Reasons of the Bill*

During the last fifteen months of the working of the Constitution, certain difficulties had been brought to light by judicial decisions and pronouncements specially in regard to the chapter on Fundamental Rights. The citizen's right to freedom of speech and expression guaranteed by article 19 (1) (a) had been held by some courts to be so comprehensive as not to render a person culpable even if he advocated murder and other crimes of violence. In other countries with written Constitutions, freedom of speech and of the press is not regarded as debarring the State from punishing or preventing abuse of this freedom. The citizen's right to practise any profession or to carry on any occupation, trade or business conferred by article 19(1)(g) is subject to reasonable restrictions which the laws of the State may impose "in the interests of the general public". The words cited are comprehensive enough to cover any scheme of nationalisation which the State may undertake. However, it was considered to place the matter beyond doubt by a clarificatory addition to article 19 (6). Another article in regard to which unanticipated difficulties had arisen was article 31. The validity of agrarian reform measures passed by the State Legislatures in the last three years had, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject matter of dilatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people, had been held up.

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<sup>1</sup> Bill No. 48 of 1951; Introduced in Parliament (Provisional) by the Prime Minister Shri Jawaharlal Nehru on 12 May 1951; Referred to Select Committee; Report of the Committee presented: 25 May 1951; Debated: 12, 16, 17, 18, 23, 25, 29, 30, 31 May and 1 and 2 June 1951; President's Assent: 18 June 1951; Date of Gazette Notification: 18 June 1951; Date of Commencement: 18 June 1951.

The main objects of this Bill were, accordingly, to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The Bill also sought to propose a few minor amendments to other articles in order to remove difficulties that might arise.

It is laid down in article 46 as a directive principle of State policy that the State should promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice. In order that any special provision that the State might make for the educational, economic or social advancement of any backward class of citizens, shall not be challenged on the ground of being discriminatory, it was proposed that article 15(3) should be suitably amplified. Certain amendments in respect of articles dealing with the convening and proroguing of the sessions of Parliament were also found necessary and were incorporated in this Bill. So also a few minor amendments in respect of articles 341, 342, 372 and 376.

#### *Legislative History*

The Constitution (First Amendment) Bill, 1951 was introduced in Parliament (Provisional) on 12 May 1951<sup>2</sup>. The Bill sought to: (i) amend articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376 of the Constitution and (ii) insert new articles 31A, 31B and Ninth Schedule in the Constitution. On a motion moved in the House on 16 May and adopted on 18 May 1951, the Bill was referred to a Select Committee<sup>3</sup>. The Report of the Select Committee was presented to the House on 25 May 1951<sup>4</sup>. The Committee suggested amendments in some of the clauses of the Bill, as introduced in the House.

The Bill, as reported by the Select Committee, was considered by the House on 29, 30 and 31 May and 1 and 2 June and, with some modifications, passed on 2 June 1951<sup>5</sup>.

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<sup>2</sup> *Parliamentary Debates* (hereinafter cited as “*Parl. Deb.*”), 12 May 1951, c. 8584.

<sup>3</sup> *Ibid.*, 16 and 18 May 1951, cc. 8814, 9089.

<sup>4</sup> *Ibid.*, 25 May 1951, c. 9307.

<sup>5</sup> *Ibid.*, 2 June 1951, c. 10106.

The clauses of the Bill, as introduced, relating to the amendment of articles 85, 174, 341, 342 and 372 were adopted by the House, in the original form<sup>6</sup>, on 2 June 1951<sup>7</sup>. The remaining clauses, which underwent certain changes, are considered hereafter in the context of the relevant articles which were sought to be amended.

#### *Amendment of Article 15*

Clauses (1) and (2) of article 15 prohibit discrimination against citizens on grounds of religion, race, caste, sex or place of birth. Clause (3) of the article, however, provides: “Nothing in this article shall prevent the State from making any special provisions for women and children.” Clause 2 of the Constitution (First Amendment) Bill, as introduced, sought to amplify the scope of clause (3) of article 15 by adding at its end the words “or for the educational, economic or social advancement of any backward classes of citizens” so that any special provision that the State may make for the advancement of these classes may not be challenged on the ground of being discriminatory. The Select Committee while agreeing with the principle underlying the proposed amendment considered that the scope of the amendment should be extended to cover article 29(2)<sup>8</sup> as well. The Committee, accordingly, modified clause (2) of the Bill so as to add a new clause (4) to article 15. The amendment was adopted by the House on 1 June 1951, and thus clause (4) was added to article 15<sup>9</sup>.

#### *Amendment of Article 19*

The Bill sought to amend, *inter alia*, article 19 (2) which specifies the grounds on which restrictions might be placed on the freedom of speech guaranteed under clause (1)(a) of that article.

Clause 3 (1)(a) of the Bill, as introduced, proposed that in article 19 for clause (2), the following clause shall be substituted and

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<sup>6</sup> The relevant clauses of the Bill were clauses 6, 8, 10, 11 and 12.

<sup>7</sup> *Parl. Deb.*, 2 June 1951, cc. 9966, 9974, 9982, 9986, 10016.

<sup>8</sup> Article 29(2) provides “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”.

<sup>9</sup> *Parl. Deb.*, 1 June 1951, cc. 9836-9837. For text of new clause (4) of article 15, see the Constitution (First Amendment) Act, 1951 in Annexure A.

the clause shall be deemed to have been originally enacted in the following form, namely:

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it imposes, or prevents, the State from making any law imposing, in the interests of security of the State, friendly relations with foreign States, public order, decency or morality, restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevents, the State from making any law relating to, contempt of court, defamation or incitement to an offence.

The important changes sought to be effected by the amending clause in the scheme of article 19 (2) may be summed up thus:

- (i) Introduction of three new grounds of restriction in regard to the freedom of speech, *viz.*, (1) friendly relations with foreign States; (2) public order; (3) incitement to an offence.
- (ii) Deletion of the ground “tends to over-throw the State”.
- (iii) Substitution of the words “any matter which offends against or undermines the security of the State” by the words “in the interests of the security of the State”.
- (iv) Replacement of the words “libel, slander” by the generic term “defamation”.
- (v) All the above changes to have retrospective effect.

The only substantial change made by the Select Committee in the proposed clause was the insertion of the word “reasonable” before the word “restrictions”, so as to bring that clause in line with clauses (3) to (6) of the article, all of which refer to laws imposing “reasonable restrictions”. The Committee also made certain consequential drafting changes in the clause.

Later, when clause (2) of article 19, as amended by the Select Committee, was considered by the House, an amendment of a drafting nature (which made the clause more concise and its meaning clear), moved by Shri Thakur Das Bhargava, was adopted<sup>10</sup>.

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<sup>10</sup> *Parl. Deb.*, 1 June 1951, cc. 9839, 9879. For text of article 19 (2), as so amended and adopted, see the Constitution (First Amendment) Act, 1951 in Annexure (A).

Clause 3(2) of the Bill as introduced in the House read:

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void or ever to have become void, on the ground only that being a law which takes away or abridges the right conferred by sub-clause (a) of clause (1) of the said article, its operation was not saved by sub-clause (2) of that article as originally enacted and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, every such law shall continue in force until altered or repealed by a competent Legislature or other competent authority.

The Select Committee felt that the lines and words in the above clause from the words “and notwithstanding” to the words “competent authority” at the end, were superfluous and suggested their omission. This change was also accepted by the House<sup>11</sup>.

Clause 3 of the Bill, as reported by the Select Committee and as slightly further modified by Shri Bhargava’s amendment, was adopted by the House on 1 June 1951<sup>12</sup>.

#### *Insertion of New Articles 31A and 31B*

As stated in the “Objects and Reasons” of the Constitution (First Amendment) Bill, the implementation of important measures of agrarian reform passed by the State Legislatures had been held up due to dilatory litigation. To meet the difficulty, clauses 4 and 5 of the Bill proposed, respectively, insertion of two new articles 31A and 31B in the Constitution.

Clause (1) of the proposed new article 31A laid down that laws providing for the acquisition of any “estate” or of any rights therein would not be deemed to be void on the ground that they were inconsistent with or abridged any of the Fundamental Rights guaranteed by the Constitution. The Select Committee suggested the addition of a

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<sup>11</sup> *Ibid.*, c. 9888.

<sup>12</sup> *Ibid.*

proviso to the clause on the lines of clause (3) of article 31. According to the proviso, the protection of the proposed new article 31A would be available to a State Law and only if such law having been reserved for the consideration of the President had received his assent.

The Select Committee also amended the definition of the expression “estate” in clause (2)(a) of the proposed new article 31A so as to cover the local equivalent of “estate” in the existing laws relating to land tenures which were in a regional language. Clause (2)(a), as amended by the Committee, read, “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”.

When clause 4 of the Bill, seeking insertion of new article 31A, was considered by the House on 1 June 1951, the Minister of Law, Dr. B.R. Ambedkar, moved an amendment that at the end of clause (2)(a) of the proposed new article (as modified by the Select Committee), after the word “area” the words “and shall also include any *jagir, inam, or muafi* or other similar grant” be added. The amendment was accepted. With this further amplification of the definition of the expression “estate”, new article 31A, as reported by the Select Committee, was adopted by Parliament (Provisional)<sup>13</sup>.

Clause 5 of the Bill proposed insertion of a new article 31B providing for the validation of certain land reform measures which had already been enacted by some of the States. These Acts were specified in a new Schedule to the Constitution—Ninth Schedule—which was proposed to be added by clause 14 of the Bill. The Select Committee suggested a verbal change in the last two lines of the proposed article—namely, the substitution of the words “each of the said Acts shall continue in force until altered or repealed by competent Legislatures” by the words “each of the said Acts shall, subject to the power of any competent Legislatures to repeal or amend it, continue in force.”

Clause 5 of the Bill, as amended by the Select Committee, was adopted by the House at the Second Reading stage<sup>14</sup>. However, at the

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<sup>13</sup> *Ibid.*, 1 June 1951, cc. 9891, 9924 and 9930.

<sup>14</sup> *Ibid.*, c. 9934.

Third Reading stage, Dr. Ambedkar moved four amendments for inserting the words “and Regulations” at different places in new article 31B. The amendments became necessary due to acceptance, by the House earlier, of addition of certain “Regulations” in the new Ninth Schedule<sup>15</sup>.

*Amendment of Articles 87 and 176*

Clause 7(1) of the Bill, as introduced in the House, sought to amend clause (1) of article 87 of the Constitution so as to provide that the President shall address Parliament at the commencement of “the first session of each year” instead of at the commencement of “every session” as under the original article. Clause 7(2) of the Bill proposed that in clause (2) of article 87<sup>16</sup>, the words “and for the precedence of such discussion over the other business of the House” be deleted. Clause 9 of the Bill proposed similar amendments in article 176 which deals with the Governor’s address to the State Legislatures.

The Select Committee suggested that where the first session of Parliament or, as the case may be, the State Legislature, after a general election, did not coincide with the first session in that year, there should be provision for an address by the President or the Governor, as the case may be. The Committee made necessary modifications in clause 7(1) and clause 9(1) of the Bill.

Clauses 7 and 9 (as amended by the Select Committee) were adopted by the House on 2 June 1951<sup>17</sup>.

*Amendment of Article 376*

Article 376(1), as it stood before the Constitution (First Amendment) Act, provided, *inter alia*, that ‘Judges of a High Court in any Province

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<sup>15</sup> *Ibid.*, 2 June 1951, cc. 10034, 10036.

<sup>16</sup> Article 87(2), as it stood before the Constitution (First Amendment) Act, 1951 read: “(2) Provisions 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 and for the precedence of such discussion over other business of the House”.

<sup>17</sup> *Parl. Deb.*, 2 June 1951, cc. 9970, 9978.

holding office immediately before the commencement of the Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State....”

Clause 13 of the Constitution (First Amendment) Bill proposed that at the end of clause (1) of article 376, the following be added:

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 or of the Supreme Court.

The Select Committee did not suggest any change in clause 13. However, when the clause came up for consideration before the House, Prof. K.T. Shah moved an amendment seeking deletion of the words “or of the Supreme Court” (at the end of the clause). The amendment was accepted and clause 13 as so amended was adopted by the House<sup>18</sup>.

#### *Addition of Ninth Schedule*

Clause 14 of the Bill sought addition to the Constitution of a new Ninth Schedule listing certain State Acts which were intended to be protected by the new article 31B. When the clause came up before the House on 1 June 1951, Shri K. Vaidya moved two amendments for inclusion of the Hyderabad (Abolition of Jagirs) Regulation, 1358F and the Hyderabad Jagirs (Commutation) Regulation, 1359F in the proposed Ninth Schedule. Shri Vaidya’s amendments, and the Ninth Schedule, as amended thereby, were adopted<sup>19</sup>.

#### *Important Provisions of the Act*

The Act has provided for inclusion of a new clause (4) to article 15 enabling the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes notwithstanding anything in this article or clause (2) of article 29. (Section 2)

<sup>18</sup> *Ibid.*, cc. 10016, 10025 and 10030.

<sup>19</sup> *Ibid.*, 1 June 1951, cc. 9893, 9926, 9927 and 9936.

The Act effects the following changes in clause (2) of article 19 which relates to the grounds of restriction on the freedom of speech:

- (i) Three new grounds of restriction have been introduced, *viz.*,
  - (1) Friendly relations with foreign States; (2) Public Order;
  - (3) Incitement to an offence.
- (ii) The ground “tends to overthrow the State” has been deleted.
- (iii) The words “any matter which offends against or undermines the security of the State” have been substituted by the words “in the interests of the security of the State”.
- (iv) The words, “libel, slander” have been deleted retaining only the generic term “defamation”.
- (v) The expression “reasonable restrictions” has been inserted and governs all the above grounds.
- (vi) All the above changes have been given retrospective effect.  
[Section 3(a)]

In clause (6) of article 19, a new ground of restriction on the freedom of trade, profession, etc., has been introduced, *viz.*, empowering the State to make any law relating to the carrying on, by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise. [Section 3(b)]

Section 4 of the Act has inserted a new article 31A which saves laws providing for acquisition of any ‘estate’ or any rights therein from the operation of any of the provisions of Part III of the Constitution containing the Fundamental Rights. The insertion of article 31A has been made retrospective. But, a law made by a State Legislature, in order to get the protection of the new article, must have had received the assent of the President.

Section 5 has inserted a new article 31B which saves certain Acts and Regulations specified in the new Schedule, *i.e.* Ninth Schedule so as to prevent them from being declared void on the ground that these are inconsistent with, or take away or abridge any of the rights conferred by Part III of the Constitution. Notwithstanding any judicial decision to the contrary, these shall continue in force subject to the power of any competent Legislature to repeal or amend the same.

The re-enacted article 85 requires that the President shall summon each House of Parliament to meet within six months of the last sitting in one session. (Section 6)

Under article 87, as amended, the President must address both Houses of Parliament at the commencement of the first session after a general election as well as that of each year and not at the commencement of “every session” as under the original article. (Section 7)

Similar changes have also been effected in the corresponding provisions for the State Legislatures, *viz.*, articles 174 and 176. (Sections 8-9)

## II

### **THE CONSTITUTION (SECOND AMENDMENT) ACT, 1952<sup>20</sup>**

#### *Objects and Reasons of the Bill*

Article 81(1)(a) prescribed an absolute limit of 500 elected members in the House of the People. Article 81(1)(b) provided that the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population.

The delimitation of Parliamentary and Assembly constituencies was based on the estimates of population which had been given legal validity by an order of the President under article 387 of the Constitution. Article 81(3) of the Constitution, however, required that upon the completion of each census, the representation of the several territorial constituencies in the House of the People and the Legislative Assemblies of each State shall be re-adjusted by such authority, in such manner and with effect from such date as Parliament may by law determine. A Bill providing for the matters referred to in that article, was proposed to be introduced in Parliament with the provision for setting up of a Delimitation Commission for the purpose of effecting re-adjustment of the representation in the House of the People and in the State Legislative

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<sup>20</sup> Bill No. 54 of 1952; Introduced in Lok Sabha by the Minister of Law and Minority Affairs, Shri C.C. Biswas on 18 June 1952; Referred to Select Committee; Report of the Committee presented: 18 November 1952; Debated, Lok Sabha: 18 June, 8 and 9 July, 11 and 18 November, 9, 10 and 15 December, 1952; Rajya Sabha: 15, 18 and 19 December 1952; President’s Assent: 1 May 1953; Date of Gazette Notification: 2 May 1953; Date of Commencement: 1 May 1953.

Assemblies on the basis of the population as ascertained at the census of 1951.

There was a considerable difference between the population of the several States as estimated in the President's order and in the population as ascertained at the census of 1951. The seats had been allotted in the House of the People to Part A and Part B States on the basis of one member for every 7.2 lakhs of the estimated population giving a total of 470 members to these States. The census figures were higher in all cases, and in view of the overall limit of 500 members prescribed in article 81(1)(a), it was not possible to increase appreciably the total number of seats allotted to these States. It was accordingly necessary to reduce the representation from one member for every 7.2 lakhs of population to one member for every 7.5 lakhs of population as per 1951 census. As pointed out above, this figure 7.5 lakhs was the maximum permissible under article 81(1)(b) as it stood; but even so if the average population of a Parliamentary constituency in any State was to be 750,000, it was obvious that the population of a certain number of constituencies would exceed that figure. It was necessary, therefore, that article 81(1)(b) should be amended relaxing the limits prescribed in that article so as to avoid a constitutional irregularity in delimiting the constituencies for the purpose of re-adjustment of representation in the House of the People as required under article 81(3) of the Constitution. This Bill accordingly sought to amend article 81(1)(b) of the Constitution so as to replace the figures mentioned in that article by the figures 850,000 and 650,000 respectively.

#### *Legislative History*

The Constitution (Second Amendment) Bill, 1952 was introduced in the House of the People on 18 June 1952<sup>21</sup>. The Bill sought to amend article 81 of the Constitution. On a motion, moved in the House on 11 November 1952 and adopted on the same day, the Bill was referred to a Select Committee of the House<sup>22</sup>. The Report of the Select Committee was presented to the House on 18 November 1952<sup>23</sup>.

The Bill, as reported by the Select Committee, was considered by the House of the People on 9, 10 and 15 December and passed on

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<sup>21</sup> *Parl. Deb., House of the People*, 18 June 1952, c. 2013.

<sup>22</sup> *Ibid.*, 11 November 1952, cc. 309, 374.

<sup>23</sup> *Ibid.*, 18 November 1952, c. 782.

15 December 1952<sup>24</sup>. The Council of States passed the Bill on 19 December 1952<sup>25</sup>.

#### *Amendment of Article 81*

The original article 81(1)(a) prescribed an absolute limit of 500 elected members in the House of the People. Article 81(1)(b) laid down that the number of members to be allotted to each territorial constituency “shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population”.

The 1951 Census figures showed that the population of the constituencies had gone up in all cases. It was obvious that in some constituencies the population would exceed the maximum limit of 750,000 which a single member could represent. In view of this and the overall limit of 500 elected members prescribed in article 81(1)(a), it was deemed necessary that article 81(1)(b) be amended relaxing the limits prescribed therein.

Clause 2 of the Constitution (Second Amendment) Bill, as introduced in the House, proposed that in sub-clause (b) of clause (1) of article 81, for the figures “750,000” the figures “850,000” and for the figures “500,000” the figures “650,000” shall be substituted. The Select Committee felt that although the proposed amendment would be sufficient to solve the immediate difficulty, it was desirable to avoid the necessity of amending article 81(1)(b) periodically after every census. The Committee, therefore, suggested that the upper limit of representation laid down in sub-clause (b) of article 81(1) be removed altogether thereby bringing that article in line with article 170(2) relating to representation in the State Assemblies. The Committee accordingly substituted a new clause for the original clause 2 of the Bill.

Clause 2 of the Bill, as substituted by the Select Committee, was adopted by the House of the People and the Council of States on 15 and 19 December 1952, respectively<sup>26</sup>.

<sup>24</sup> *Ibid.*, 15 December 1952, c. 2386.

<sup>25</sup> *Parl. Deb., Council of States*, 19 December 1952, c. 2530.

<sup>26</sup> *Parl. Deb., House of the People*, 15 December 1952, c. 2361; *Council of States*, 19 December 1952, c. 2521.

*Important Provisions of the Act*

The upper population limit for a parliamentary constituency which was 7,50,000, has been removed by amending article 81(1)(b).

### III

#### THE CONSTITUTION (THIRD AMENDMENT) ACT, 1954<sup>27</sup>

*Objects and Reasons of the Bill*

While trade and commerce within the State, and production supply and distribution of goods in general were within the legislative and executive authority of the States, Parliament was competent, by virtue of Entry 33 of List III, to legislate in respect of products of industries declared to be under Union control. In addition, Parliament was empowered by article 369, for a period of five years from the commencement of the Constitution, to legislate in respect of certain specified essential commodities. Some of these, like cotton and woollen textiles, paper, coal, iron and steel, being products of industries under Union control, could continue to be regulated by Central legislation even after the lapse of article 369 on 25 January 1955. Other essential commodities, like foodstuffs, cattle fodder, raw cotton and cotton seed, would after that date be outside the legislative authority of Parliament.

The position in respect of foodstuffs and cattle fodder was fairly comfortable, but it would not be advisable for the Centre to be divested of all legal powers to control their production, supply and distribution. Cotton, the basic raw material for one of our largest industries, was in

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<sup>27</sup> Bill No. 40 of 1954; Introduced in Lok Sabha by the Minister of Commerce and Industry, Shri T.T. Krishnamachari on 6 September 1954; Referred to Joint Committee; Report of the Committee presented: 20 September 1954; Debated, Lok Sabha: 6, 10, 11, 13, 20, 22 and 23 September 1954; Rajya Sabha: 15, 16, 24, 27 and 28 September 1954; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Bihar, Madhya Pradesh, Madras, Patiala and East Punjab States Union, Punjab, Rajasthan, Saurashtra and West Bengal; President's Assent: 22 February 1955; Date of Gazette Notification: 22 February 1955; Date of Commencement: 22 February 1955.

short supply in the sense that our own production was not sufficient for our needs. Since jute goods were the most important item in our export trade it was desirable that the Centre should have the power to control the production, supply and distribution of raw jute.

The Bill accordingly proposed to amplify Entry 33 of List III in the Seventh Schedule to the Constitution. Besides placing four classes of essential commodities in that entry, it was proposed to include also imported goods of the same kind as the products of centralised industries, in order that the Centre might be in a position to exercise full control over the development of such industries.

#### *Legislative History*

The Constitution (Third Amendment) Bill, 1954 was introduced in the Lok Sabha (House of the People) on 6 September 1954<sup>28</sup>. The Bill sought to substitute a new entry for the original Entry 33 of List III in the Seventh Schedule to the Constitution. On a motion moved in the Lok Sabha on 10 September, adopted on 13 September and concurred in by the Rajya Sabha (Council of States) on 16 September 1954, the Bill was referred to a Joint Committee<sup>29</sup>.

In its Report, presented to the Lok Sabha on 20 September 1954, the Joint Committee approved the Bill, as introduced, subject to a slight verbal change in clause (a) of the proposed Entry 33<sup>30</sup>.

The Bill as amended by the Joint Committee, was adopted by each of the Houses without any further change. It was considered and adopted by the Lok Sabha on 22 and 23 September and by the Rajya Sabha on 27 and 28 September 1954<sup>31</sup>.

<sup>28</sup> *Lok Sabha Debates* (hereinafter cited as *L.S. Deb.*), 6 September 1954, c. 1054.

<sup>29</sup> *L.S. Deb.*, 10 and 13 September 1954, cc. 1355, 1655 and 1666; *Rajya Sabha Debates* (Hereinafter cited as *R.S. Deb.*), 16 September 1954, c. 2410.

<sup>30</sup> The Committee suggested that in clause (a) of the proposed Entry 33, the words “the control of which” be substituted by the words “where the control of such industry”. For Entry 33 of List III, as substituted by the Constitution (Third Amendment) Act, 1954, see Annexure (A).

<sup>31</sup> *L.S. Deb.*, 23 September 1954, cc. 2967, 2968 and 2977; *R.S. Deb.*, 28 September 1954, cc. 3751, 3757.

*Important Provisions of the Act*

Entry 33 of the Concurrent List has been re-enacted to include four classes of essential commodities, *viz.*, (1) foodstuffs, including edible oilseeds and oils; (2) cattle fodder, including oil cakes and other concentrates; (3) raw cotton, whether ginned or unginned, and cotton seed; and (4) raw jute. In addition, imported goods of the same kind as the products of centralized industries have also been brought within the purview of that Entry.

## IV

### THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955<sup>32</sup>

*Objects and Reasons of the Bill*

This Bill sought to amend articles 31, 31A and 305 of, and the Ninth Schedule to, the Constitution.

Decisions of the Supreme Court had given a very wide meaning to clauses (1) and (2) of article 31. Despite the difference in the wording of the two clauses, they were regarded as dealing with the same subject. The deprivation of property referred to in clause (1) was to be construed in the widest sense as including any curtailment of a right to property. Even where it was caused by a purely regulatory provision of law and was not accompanied by an acquisition or taking possession of that or any other property right by the State, the law, in order to be valid according to these decisions, had to provide for compensation under clause (2) of the article. It was considered, therefore, necessary to re-state more precisely the State's power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State results in "deprivation of property". This was sought to be done in clause 2 of the Bill.

<sup>32</sup> Bill No. 64 of 1954; Introduced in Lok Sabha by the Prime Minister, Shri Jawaharlal Nehru on 20 December 1954; Referred to Joint Committee; Report of the Committee presented: 31 March 1955; Debated, Lok Sabha: 20 December 1954 and 14, 15 and 31 March and 11 and 12 April 1955; Rajya Sabha: 17 and 19 March and 19 and 20 April 1955; President's Assent: 27 April 1955; Date of Gazette Notification: 28 April 1955; Date of Commencement: 27 April 1955.

The zamindari abolition laws which came first in the programme of social welfare legislation were attacked by the interests affected mainly with reference to articles 14, 19 and 31 and that in order to put an end to the dilatory and wasteful litigation and place these laws above challenge in the courts, articles 31A and 31B and the Ninth Schedule were enacted by the Constitution (First Amendment) Act. Subsequent judicial decisions interpreting articles 14, 19 and 31 had raised serious difficulties in the way of the Union and the States putting through other and equally important social welfare legislation on the desired lines, e.g., the following:

- (i) While the abolition of zamindaris and the numerous intermediaries between the State and the tiller of the soil had been achieved for the most part, the next objectives in land reform were the fixing of limits to the extent of agricultural land that might be owned or occupied by any person, the disposal of any land held in excess of the prescribed maximum and the further modification of the rights of the land owners and tenants in agricultural holdings.
- (ii) The proper planning of urban and rural areas required the beneficial utilisation of vacant and waste lands and the clearance of slum areas.
- (iii) In the interests of national economy, the State should have full control over the mineral and oil resources of the country, including in particular, the power to cancel or modify the terms and conditions of prospecting licences, mining leases and similar agreements. This was also necessary in relation to public utility undertakings which supply power, light or water to the public under licences granted by the State.
- (iv) It was often found necessary to takeover, under State management, for a temporary period a commercial or industrial undertaking or other property in the public interest or in order to secure the better management of the undertaking or property. Laws providing for such temporary transference to State management should be permissible under the Constitution.
- (v) The reforms in company law now under contemplation, like the progressive elimination of the managing agency system, provision for the compulsory amalgamation of two or more companies in the national interest, the transfer of an

undertaking from one company to another, etc., were required to be placed above challenge.

It was accordingly proposed in clause 3 of the Bill to extend the scope of article 31A so as to cover these categories of essential welfare legislation.

As a corollary to the proposed amendment of article 31A, it was proposed in clause 5 of the Bill to include in the Ninth Schedule to the Constitution two more State Acts and four Central Acts which fall within the scope of sub-clauses (d) and (f) of clause (1) of the revised article 31A. The effect would be their complete, retrospective validation under the provisions of article 31B.

The judgment of the Supreme Court in *Saghir Ahmed vs. the State of U.P.*<sup>33</sup> had raised the question whether an Act providing for a State monopoly in a particular trade or business conflicts with the freedom of trade and commerce guaranteed by article 301, but left the question undecided. Clause (6) of article 19 was amended by the Constitution (First Amendment) Act in order to take such State monopolies out of the purview of sub-clause (g) of clause (1) of that article, but no corresponding provision was made in Part XIII of the Constitution with reference to the opening words of article 301. It appeared from the judgment of the Supreme Court that notwithstanding the clear authority of Parliament or of a State Legislature to introduce State monopoly in a particular sphere of trade or commerce, the law might have to be justified before the courts as being “in the public interest” under article 301 or as amounting to a “reasonable restriction” under article 304(b). It was considered that any such question ought to be left to the final decision of the Legislature. Clause 4 of the Bill accordingly proposed an amendment of article 305 to make this clear.

#### *Legislative History*

The Constitution (Fourth Amendment) Bill, 1954 was introduced in the Lok Sabha on 20 December 1954<sup>34</sup>. The Bill sought to amend articles 31, 31A, and 305 and the Ninth Schedule to the Constitution.

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<sup>33</sup> (1954) S.C.A. 1218.

<sup>34</sup> L.S. Deb., 20 December 1954, c. 3461.

On a motion, moved in the Lok Sabha on 14 March adopted on 15 March and concurred in by the Rajya Sabha on 19 March 1955, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>35</sup>.

The Report of the Joint Committee was presented to the Lok Sabha on 31 March 1955<sup>36</sup>. The Committee suggested certain amendments in the Enacting Formula, clauses 1, 2 and 3 of the Bill.

The Bill, as reported by the Joint Committee, was considered by the Lok Sabha on 11 and 12 April and passed with some modifications on 12 April 1955<sup>37</sup>.

The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 19 and 20 April and passed on 20 April 1955<sup>38</sup>.

Clause 1 as formally amended by the Joint Committee, was adopted by the Lok Sabha and the Rajya Sabha on 12 and 20 April 1955, respectively<sup>39</sup>.

#### *Amendment of Article 31*

Clause 2 of the Bill, as introduced in the Lok Sabha, sought to substitute clause (2) of article 31<sup>40</sup> by the following clauses:

(2) No property shall be compulsorily acquired or requisitioned by the State save for a public purpose and save by authority of a law which provides for compensation for the property so

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<sup>35</sup> *Ibid.*, 14 March 1955, c. 1943, 15 March 1955, cc. 2197, 2198; *R.S. Deb.*, 19 March 1955, c. 2520.

<sup>36</sup> *L.S. Deb.*, 31 March 1955, c. 4005.

<sup>37</sup> *Ibid.*, 12 April 1955, c. 5128.

<sup>38</sup> *R.S. Deb.*, 20 April 1955, c. 5400.

<sup>39</sup> *L.S. Deb.*, 12 April 1955, c. 5104; *R.S. Deb.*, 20 April 1955, c. 5390.

<sup>40</sup> The original Article 31 (2) read: “(2) No property movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of compensation or specifies the principle on which, and the manner in which, the compensation is to be determined and given”.

acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

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

The Joint Committee felt that although in all cases falling within the proposed clause (2) of article 31 compensation should be provided, the quantum of compensation should be left to be determined by the Legislature, and it should not be open to the courts to go into the question whether the compensation provided in the law was adequate or not. Accordingly, a provision that the law shall not be called in question in any court on the ground that the compensation provided by it was not adequate, was added by the Committee at the end of proposed clause (2).

The Joint Committee also amended and amplified new clause (2A) so as to cover transfer of ownership or right to possession of property to corporations owned or controlled by the State. The Committee also omitted the words “by the State” in both clauses (2) and (2A); in its view these words were unnecessary since all compulsory acquisition and requisitioning of property could only be by the State.

Clause 2 of the Bill, as amended by the Joint Committee, was adopted by the Lok Sabha and the Rajya Sabha on 12 and 20 April 1955, respectively<sup>41</sup>.

#### *Amendment of Article 31A*

Clause 3 (a) of the Bill, as introduced in the Lok Sabha, sought to provide that in article 31A<sup>42</sup> of the Constitution for clause (1), the

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<sup>41</sup> L.S. Deb., 12 April 1955, c. 5085; R.S. Deb., 20 April 1955, c. 5348.

<sup>42</sup> Article 31A was inserted by the Constitution (First Amendment) Act, 1951. For Text of the article as it stood prior to the Constitution (Fourth Amendment) Act, see the Constitution (First Amendment) Act, 1951 in Annexure (A).

following clause shall be, and shall be deemed always to have been substituted, namely:

- (1) Notwithstanding anything contained in article 13, no law providing for:
  - (a) the acquisition by the State of any estate or of any rights therein, or
  - (b) the extinguishment or modification of any rights in estates or in agricultural holdings, or
  - (c) the maximum extent of agricultural land that may be owned or occupied by any person and the disposal of any agricultural land held in excess of such maximum, whether by transfer to the State or otherwise, or
  - (d) the acquisition of requisitioning of any immovable property for the relief or rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan, or
  - (e) the acquisition or requisitioning for a public purpose of any land, buildings or huts declared in pursuance of law to constitute a slum, or of any vacant or waste land, or
  - (f) 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
  - (g) the transfer of any undertakings wholly or in part, from one company to another or the amalgamation of two or more companies either in the public interest or in order to secure the proper management of the undertakings or of any of the companies, or
  - (h) the extinguishment or modification of any rights of managing agents, managing directors, managers or shareholders of companies, or
  - (i) 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 for the purpose of supplying power, light or water to the public, or the premature termination or cancellation of any such agreement, lease or licence,

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

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

Clause 3 (b) of the Bill, as introduced in the Lok Sabha, sought to provide that in sub-clause (b) of clause 2 of article 31A:

- (i) after the words “an estate”, the words “or agricultural holdings” shall be, and shall be deemed always to have been, inserted; and
- (ii) after the word “tenure-holder”, the words “*raiyat, under raiyat*” shall be, and shall be deemed always to have been inserted.

In view of the further amendment proposed by them in clause (2) of article 31 (placing questions as to the adequacy of compensation outside judicial review), the Joint Committee considered that in the proposed clause (1) of article 31A, the reference in sub-clause (b) to “agricultural holdings”, sub-clauses (c), (d) and (e); the reference in sub-clause (g) to the transfer of undertakings from one company to another; and the reference in sub-clause (i) to agreements or licences for the supply of power, light or water to the public were not necessary. The Committee, therefore, omitted them. The remaining sub-clauses were re-lettered and retained with a few modifications. Thus, in new sub-clause (a), provisions contained in original sub-clauses (a) and (b) (excluding the reference to “agricultural holdings”) were combined. In new sub-clauses (c) and (d) [original sub-clauses (g) and (h)], the word “corporations” was substituted for the words “companies” in order to

cover statutory corporations as well as companies. In new sub-clause (d) [original sub-clause (h)], a reference to secretaries and treasurers was included as their position was similar to that of managing agents; so far as shareholders were concerned, the Committee considered it sufficient to refer to their voting rights.

With the foregoing changes, clause 3 of the Bill (as amended by the Joint Committee) read:

In article 31A of the Constitution:

(a) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely:

(1) Notwithstanding anything contained in article 13, no law providing for:

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

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

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

(b) in sub-clause (b) of clause (2), after the word “tenure-holder”, the words “*raiyat, under raiyat*”, shall be, and shall be deemed always to have been, inserted.

During consideration of the Bill by the Lok Sabha, the Minister of Legal Affairs, Shri H.V. Pataskar, moved two amendments to clause 3, as amended by the Joint Committee. The first amendment only sought a minor verbal alteration in proposed sub-clause (1) (d) of article 31A. The second amendment proposed that in sub-clause (a) of clause (2) of article 31A, after the word “grant”, the words “and in the States of Madras and Travancore-Cochin, any *janmam* right” shall be, and shall be deemed always to have been, inserted. Both the amendments were accepted by the Lok Sabha. With these further changes, clause 3 of the Bill, amending article 31A, was adopted by the Lok Sabha on 12 April 1955<sup>43</sup> and by the Rajya Sabha on 20 April 1955<sup>44</sup>.

#### *Amendment of Article 305*

As stated in the “Objects and Reasons” of the Bill, the amendment of article 305 became necessary to make it clear that legislation providing for monopoly trading by the State would be immune from attack on the ground that it conflicted with the freedom of trade and commerce as secured by articles 301<sup>45</sup> and 303<sup>46</sup> of the Constitution.

Clause 4 of the Bill, as introduced in the Lok Sabha, sought to substitute the original article 305 by the following:

Nothing in articles 301 and 303 shall affect the provisions of any existing law; and nothing in article 301 shall affect the operation

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<sup>43</sup> *L.S. Deb.*, 12 April 1955, cc. 5025, 5027, 5071, 5072 and 5089.

<sup>44</sup> *R.S. Deb.*, 20 April 1955, c. 5377.

<sup>45</sup> Article 301 guarantees freedom of trade, commerce and intercourse throughout the territory of India.

<sup>46</sup> Article 303 places certain restrictions on the legislative powers of Parliament and State Legislatures with regard to trade and commerce.

of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1954<sup>47</sup> 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 it referred to in sub-clause (ii) of clause (6) of article 19<sup>48</sup>.

During consideration of the Bill by the Lok Sabha, Pandit Thakur Das Bhargava moved an amendment to the effect that after the words “any existing law” in the proposed article 305 the words “except in so far as the President may by order otherwise direct” be inserted. The amendment was accepted by the House<sup>49</sup>. Clause 4 of the Bill, as so amended, was adopted by the Lok Sabha and Rajya Sabha on 12 and 20 April 1955, respectively<sup>50</sup>.

#### *Amendment of Ninth Schedule*

Clause 5 of the Bill sought to add 6 new entries (enactments or specific provisions of certain Acts) to the Ninth Schedule so as to give the relevant Acts or provisions retrospective validation under article 31B. At the consideration stage in the Lok Sabha, one more entry was added following an amendment to that effect by the Minister of Legal Affairs, Shri Pataskar<sup>51</sup>. Clause 5, as so amended, was adopted by the Lok Sabha on 12 April 1955 and by the Rajya Sabha on 20 April 1955<sup>52</sup>.

#### *Important Provisions of the Act*

Clause (2) of article 31 has been re-enacted. The amendment in the first part of this is somewhat verbal. The generic word ‘property’ has been retained while the words connoting species of property have been

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<sup>47</sup> The Joint Committee replaced the figures “1954” by the figures “1955”.

<sup>48</sup> Sub-clause 6 (ii) of article 19, as amended by the Constitution (First Amendment) Act, permits legislation being made enabling the State to carry on any trade or business, etc., to the exclusion, complete or partial of citizens or otherwise *vide* the Constitution (First Amendment) Act, 1951. [For Text see Anenxure (A)]

<sup>49</sup> *L.S. Deb.*, 12 April 1955, c. 5059.

<sup>50</sup> *Ibid.*, and *R.S. Deb.*, 20 April 1955, c. 5386.

<sup>51</sup> *L.S. Deb.*, 12 April 1955, cc. 5031, 5099.

<sup>52</sup> *Ibid.*, cc. 1503-1504; *R.S. Deb.*, 20 April 1955, c. 5386.

dispensed with. The words “taken possession of or acquired” have been replaced by the words “compulsorily acquired or requisitioned” and so have the words “under any law authorising the taking of such possession or such requisition” been substituted by the words “save by authority of a law”. These changes have been made to distinguish the scope of clause (2) from clause (1). Further, the amended clause makes it clear that no property can be compulsorily acquired or requisitioned by the State save for a “public purpose”. Finally, the question of “adequacy” of compensation is made non-justiciable. (Section 2)

A new clause (2A) has been inserted in article 31. It clearly lays down that the obligation to pay compensation under clause (2) will no longer arise unless either the ownership or the right to possession of the individual is transferred to the State or a corporation owned or controlled by the State. (Section 2)

Clause (1) of article 31A has been replaced by a new clause and the amendment has been given retrospective effect. As a result of the amendment, in addition to laws relating to the abolition of zamindari, some more categories of welfare legislation have been taken out from the purview of articles 14, 19 and 31, *viz.*, laws providing for:

- (1) taking over the management of any property by the State for a limited period;
- (2) amalgamation of two or more corporations;
- (3) extinguishment or modification of rights of persons interested in corporations; and
- (4) extinguishment or modification of rights accruing under any agreement, lease or licence relating to minerals.

The definition of “estate” in clause (2) of article 31A has been enlarged in order to include not only the interests of “intermediaries” strictly so called but also of “*raiayats and under raiyats*”. (Section 3)

Article 305 has been amended to make existing as well as future laws, providing for monopoly trading by the State, immune from attack on the ground of contravention of articles 301 and 303. (Section 4)

Seven new enactments have been added in the Ninth Schedule. The effect will be their complete retrospective validation under article 31B. (Section 5)

**V****THE CONSTITUTION (FIFTH AMENDMENT)  
ACT, 1955<sup>53</sup>***Objects and Reasons of the Bill*

Under the proviso to article 3 of the Constitution, as it stood before amendment, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State could be introduced in Parliament, unless the views of the State Legislatures concerned with respect to the provisions of the Bill had been ascertained by the President. The intention of this proviso was to ensure that all the States affected by a reorganisation proposal had a reasonable opportunity of expressing their views. It was considered desirable that when a reference was made to the State Legislatures for the said purpose, the President should be able to prescribe the period within which the States should convey their views, and it should be open to the President to extend such period whenever he considered it necessary. It was also considered desirable to provide that the Bill would not be introduced until after the expiry of such period. The Bill sought to amend the proviso to article 3 of the Constitution accordingly.

*Legislative History*

The Constitution (Fifth Amendment) Act, 1955, when introduced in the Lok Sabha on 9 December 1955, was titled as the Constitution (Eighth Amendment) Bill, 1955<sup>54</sup>. It sought to amend article 3 of the Constitution, dealing with Parliament's power to provide by law for the formation of new States and alteration of areas, boundaries or names of existing States.

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<sup>53</sup> Bill No. 73 of 1955; Introduced as the Constitution (Eighth Amendment) Bill in Lok Sabha by the Minister of Legal Affairs, Shri H.V. Pataskar on 9 December 1955; Debated, Lok Sabha: 12, 13 December 1955; Rajya Sabha: 15 December 1955; President's Assent: 24 December 1955; Date of Gazette Notification: 26 December 1955; Date of Commencement: 12 December 1956.

<sup>54</sup> L.S. Deb., 9 December 1955, c. 1946.

Earlier, the Constitution (Fifth Amendment) Bill, 1955, introduced in the Lok Sabha on 21 November 1955<sup>55</sup>, had also sought to amend article 3, though not exactly in the same terms. As a very long time was to be taken to dispose of the Bill (seeking to amend many articles) in its entirety, the Government thought it proper to introduce a separate Bill just to expedite consideration and passing of the amendment to article 3 of the Constitution. Therefore, the Constitution (Seventh Amendment) Bill, 1955, seeking to amend article 3 of the Constitution, was introduced in the Lok Sabha on 28 November 1955<sup>56</sup>. Clause 2 of this Bill, which sought to amend article 3, was exactly similar to the corresponding clause of the Constitution (Fifth Amendment) Bill, 1955. However, the motion for reference of the Constitution (Seventh Amendment) Bill, 1955 to a Select Committee, moved in the Lok Sabha on 30 November 1955, was lost as it did not obtain the support of a special majority as required by the Rules of Procedure of the House<sup>57</sup>.

Thereafter, the Government brought forward the Constitution (Eighth Amendment) Bill, 1955. The new Bill, as introduced in the Lok Sabha on 9 December 1955, was an improvement on the earlier Bills for amending article 3. It was considered by the Lok Sabha on 12 and 13 December and passed in the original form on 13 December 1955<sup>58</sup>. After the Bill was passed by the Lok Sabha, the Speaker, by a formal amendment, substituted the bracket and words “(Eighth Amendment)” in clause I of the Bill by the brackets and words “(Fifth Amendment)”<sup>59</sup>. The Bill, as so changed, was considered and passed by the Rajya Sabha on 15 December 1955<sup>60</sup>.

#### *Important Provisions of the Act*

The re-enacted proviso to article 3 enables the President: (1) to prescribe the period within which the State concerned should convey

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<sup>55</sup> *Ibid.*, 21 November 1955, c. 6. For Text of the Constitution (Fifth Amendment) Bill, 1955 see Annexure (B) and for Legislative History of the Bill see Chapter III.

<sup>56</sup> *L.S. Deb.*, 28 November 1955, cc. 658, 661-662. For Text of the Constitution (Seventh Amendment) Bill, 1955 see Annexure (B) and for Legislative History of the Bill see Chapter III.

<sup>57</sup> *Ibid.*, 30 November 1955, c. 890.

<sup>58</sup> *Ibid.*, 13 December 1955, cc. 2477-2478.

<sup>59</sup> *Ibid.*, cc. 2469, 2470.

<sup>60</sup> *R.S. Deb.*, 15 December 1955, c. 2819.

its views with respect to the Bill (for the purpose of forming new States etc.) referred to it; and (2) to extend such period, if necessary. The amendment lays down that no such Bill can be introduced in Parliament until after the expiry of the prescribed or extended period.

## VI

### **THE CONSTITUTION (SIXTH AMENDMENT) ACT, 1956<sup>61</sup>**

#### *Objects and Reasons of the Bill*

While “taxes on the sale or purchase of goods other than newspapers” is an entry in the State List, article 286 of the Constitution subjects the States’ power to impose such taxes to four restrictions, of which two are total and two are partial. Under clause (1) of the article, a State is debarred from imposing such a tax when the sale or purchase takes place outside the State or in the course of import into, or export from, the country. With regard to the first restriction, namely, the non-taxability of sales outside the State, an explanation is given in the clause that “a sale or purchase shall be deemed to have taken place in the State in which goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State”. Then, under clause (2), a State is debarred from imposing the tax on inter-State sales except in so far as Parliament may otherwise provide. Lastly, under clause (3), Parliament is authorised to declare the goods which are essential to the life of the community, and when such a declaration has been made, any law made by a State Legislature imposing a tax on the sale or purchase of those goods has to receive the President’s assent in order to be effective.

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<sup>61</sup> Bill No. 35 of 1956; Introduced as the Constitution (Tenth Amendment) Bill in Lok Sabha by the Minister of Revenue and Civil Expenditure, Shri M.C. Shah on 3 May 1956; Referred to the Joint Committee; Report of the Committee presented: 29 May 1956; Debated, Lok Sabha: 7 and 29 May 1956; Rajya Sabha: 16 and 31 May 1956; Ratified as per requirement of proviso to article 368(2) of the Constitution by the State Legislatures, namely, Andhra Pradesh, Assam, Hyderabad, Madhya Bharat, Madhya Pradesh, Madras, Punjab, Punjab and East Punjab States Union, Saurashtra, Uttar Pradesh and West Bengal; President’s Assent: 11 September 1956; Date of Gazette Notification: 11 September 1956; Date of Commencement: 11 September 1956.

High judicial authorities found that interpretation of the article a difficult task and expressed divergent views as to the scope and effect, in particular, of the explanation in clause (1) and of clause (2). The majority view of the Supreme Court in *the State of Bombay vs. the United Motors (India) Ltd.*,<sup>62</sup> was that sub-clause (a) and the explanation in clause (1) prohibited the taxation of a sale involving inter-State elements by all States except the State in which the goods were delivered for the purpose of consumption therein, and furthermore, that clause (2) did not affect the power of that State to tax the inter-State sale even though Parliament had not made a law removing the ban imposed by that clause. This resulted in dealers resident in one State being subjected to the sales tax jurisdiction and procedure of several other States with which they had dealings in the normal course of their business. Two-and-a-half years later, the second part of this decision was reversed by the Supreme Court in *the Bengal Immunity Company Ltd. vs. the State of Bihar*<sup>63</sup>, but here too the Court was not unanimous.

In pursuance of clause (3) of the article, Parliament passed an Act in 1952 declaring a number of goods like foodstuff of various kinds, cloth, raw cotton, cattle feeds, iron and steel, coal, etc. to be essential to the life of the community. Since this declaration could not affect pre-existing State laws imposing sales tax on these goods, the result was a wide disparity from State to State, not only in the range of exempted goods, but also in the rates applicable to them.

The Taxation Enquiry Commission, after examining the problem with great care and thoroughness, made certain recommendations which might be summarised as follows. In essence, sales tax must continue to be a State source of revenue and its levy and administration must substantially pertain to the State Governments. The sphere of power and responsibility of the State might, however, be said to end, and that of the Union to begin, when the sales tax of one State impinges, administratively on the dealers, and fiscally on the consumers, of another State. Broadly, therefore, inter-State sales should be the concern of the Union, but the responsibilities pertaining to the Union could be exercised through the State Governments, and in any case, the revenue should

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<sup>62</sup> (1953) S.C.R. 1069.

<sup>63</sup> (1955) S.C.A. 1140.

appropriately devolve on them. Intra-State sales, on the other hand, should be left to the States, but with one important exception. Where, for instance, raw material produced in a State is important from the point of view of the consumer or the industry of another State, certain restrictions have to be placed on the taxing power of the State Government, as otherwise it can effect an increase in the cost of the manufactured article, whether such manufacture takes place in the State which produces the raw material, or in another State which imports the material from the State. In either case, to the extent that the finished goods are consumed in a State other than the one which taxes the raw material, the increase in cost on account of the tax is a matter of direct concern to the consumer of another State. Such cases of intra-State sales should appropriately be brought under the full control of the Union. These recommendations of the Commission had been generally accepted by all the State Governments.

The object of this Bill was to give effect to the recommendations of the Commission as regards the amendment of the constitutional provisions relating to sales tax.

In clause 2, it was proposed to add a new Entry 92A in the Union List placing taxes on inter-State sales and purchases within the exclusive legislative and executive power of the Union, and to make Entry 54 of the State List "subject to the provisions" of this new entry.

In clause 3, the Bill proposed to add these taxes to the list given in clause (1) of article 269, so that, although they would be levied and collected in accordance with an Act of Parliament, they would not form part of the Consolidated Fund of India, but would accrue to the States themselves in accordance with such principles of distribution as might be formulated by Parliament by law. A further provision was proposed in article 269 expressly empowering Parliament to formulate by law principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.

It was proposed in clause 4 to omit from clause (1) of article 286 the Explanation which had given rise to a great deal of legal controversy and practical difficulty. In view of the centralisation of inter-State sales tax proposed in clause 2 of this Bill, clause (2) of article 286 in its present form would cease to be appropriate. In its place, it was proposed

to insert a provision empowering Parliament to formulate principles for determining in case of a sale or purchase of goods: (a) outside a State, or (b) in the course of import of the goods into the territory of India or (c) in the course of export of the goods out of the territory of India.

It was further proposed to replace clause (3) of article 286 by a new clause on the lines recommended by the Taxation Enquiry Commission. Under this revised clause Parliament would have the power to declare by law the goods which were of special importance in inter-State trade or commerce and also to specify the restrictions and conditions to which any State law (whether made before or after the Parliamentary law) would be subject in regard to the system of levy, rates and other incidents of the tax on the sale or purchase of those goods.

#### *Legislative History*

The Constitution (Sixth Amendment) Act, 1956, when introduced in the Lok Sabha on 3 May 1956, was titled as the Constitution (Tenth Amendment) Bill, 1956<sup>64</sup>. It sought to amend articles 269, 286 and the Seventh Schedule to the Constitution with a view to removing certain anomalies with regard to taxes on inter-State sales and purchases. On a motion, moved in the Lok Sabha on 9 May and adopted on the same day, and concurred in by the Rajya Sabha on 16 May 1956, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>65</sup>.

The Report of the Joint Committee was presented to the Lok Sabha on 23 May 1956<sup>66</sup>. The Committee did not consider any amendment in the Bill necessary and recommended that the Bill, as introduced in the Lok Sabha, be passed.

The Bill, as introduced, was then considered and passed by the Lok Sabha on 29 May 1956 with only a formal amendment moved by the Minister of Finance, Shri C.D. Deshmukh, substituting the brackets and words “(Tenth Amendment)” in clause 1 by the brackets and words “(Sixth Amendment)”. Clause 2 (seeking insertion of a new Entry 92A

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<sup>64</sup> L.S. Deb., 3 May 1956, c. 7091.

<sup>65</sup> Ibid., 9 May 1956, cc. 7744, 7826; R.S. Deb., 16 May 1956, c. 2363.

<sup>66</sup> L.S. Deb., 23 May 1956, c. 9255.

in the Union List of the Seventh Schedule), clause 3 (amending article 269) and clause 4 (amending article 286) were adopted in their original form<sup>67</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 31 May 1956<sup>68</sup>.

*Important Provisions of the Act*

In the Union List, a new Entry 92A has been added which places taxes on inter-State sales and purchases of goods other than newspapers within the exclusive legislative and executive power of the Union and makes Entry 54 of the State List “subject to the provisions” of this new entry. (Section 2)

Section 3(a) of the Act added taxes on inter-State sales and purchase of goods other than newspapers to the list given in clause (1) of article 269 by inserting a new sub-clause (g) in that article. Thus, although these taxes would be levied and collected in accordance with an Act of Parliament, they would not form part of the Consolidated Fund of India, but would accrue to the States themselves in accordance with such principles of distribution as may be formulated by Parliament by law.

Section 3(b) has inserted a new clause (3) in article 269. The new clause expressly empowers Parliament to formulate by the principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.

The Explanation from clause (1) of article 286 has been omitted and clause (2) of the article has been substituted to empower Parliament to formulate principles for determining when a sale or purchase of goods takes place (a) outside a State, or (b) in the course of import or (c) in the course of export. Further, under the revised clause (3) of article 286, Parliament will have the power to declare by law the goods which are of special importance to inter-State trade or commerce and also to specify the restrictions and conditions to which any State law (whether made before or after the Parliamentary law) would be subject in regard to the system of levy, rates and other incidents of the tax on the sale or purchase of those goods. (Section 4)

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<sup>67</sup> *Ibid.*, 29 May 1956, cc. 9975-9978.

<sup>68</sup> *R.S. Deb.*, 31 May 1956, cc. 4193, 4197 and 4202.

## VII

### THE CONSTITUTION (SEVENTH AMENDMENT) ACT, 1956<sup>69</sup>

#### *Objects and Reasons of the Bill*

In order to implement the scheme of States reorganisation, it was considered necessary to make numerous amendments in the Constitution. The Bill seeks to make these amendments and also some other amendments to certain provisions of the Constitution relating to High Courts and High Court Judges, the executive power of the Union and the States, and a few entries in the legislative lists. The reasons for making the amendments were as below:

*Clause 2.*—The reorganisation scheme involved not only the establishment of new States and alterations in the area and boundaries of the existing States, but also the abolition of the three categories of States (Part A, Part B and Part C States) and the classification of certain areas as Union territories. Article 1 was required to be suitably amended for this purpose and the First Schedule completely revised.

*Clause 3.*—The amendments proposed in article 80 were formal and consequential. The territorial changes and the formation of new States and Union territories as proposed in Part II of the States Reorganisation Bill, 1956 involved a complete revision of the Fourth Schedule to the Constitution by which the seats in the Council of States were allocated to the existing States. The existing allocation was

<sup>69</sup> Bill No. 29 of 1956: Introduced as the Constitution (Ninth Amendment) Bill in Lok Sabha by the Minister of Home Affairs Pt. G.B. Pant on 18 April 1956; Referred to the Joint Committee; Report of the Committee presented: 16 July 1956; Debated, Lok Sabha: 26 and 27 April and 4, 5 and 6 September 1956; Rajya Sabha: 2 May and 10 and 11 September 1956; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Bihar, Bombay, Hyderabad, Madhya Bharat, Madhya Pradesh, Madras, Mysore, Punjab, Punjab and East Punjab States Union, Rajasthan, Saurashtra and Uttar Pradesh; President's Assent: 19 October 1956; Date of Gazette Notification: 19 October 1956; Date of Commencement: 1 November 1956.

on the basis of the population of each State as ascertained at the census of 1941 and the number of seats allotted to each Part A and Part B State was according to the formula, one seat per million for the first five millions and one seat for every additional two millions or part thereof exceeding one million. It was proposed to revise the allocation of seats on the basis of the latest census figures, but according to the same formula as before.

*Clause 4.*—The abolition of Part C States as such and the establishment of Union territories made extensive amendment of articles 81 and 82 inevitable. The provision in article 81(1)(b) that “the States shall be divided, grouped or formed into territorial constituencies would no longer be appropriate, since after reorganisation each of the States would be large enough to be divided into a number of constituencies and would not permit of being grouped together with other States for this purpose or being “formed” into a single territorial constituency. Clause (2) of article 81 and article 82 would require to be combined and revised in order to make suitable provision for Union territories. Instead of amending the articles piecemeal, it was proposed to revise and simplify them. Incidentally, it was proposed in clause (1) (b) of the revised article 81 to fix a maximum for the total number of representatives that might be assigned to the Union territories by Parliament.

*Clause 5.*—The proposed revision of the proviso to article 131 was consequential on the disappearance of Part B States as such. The two parts of the existing proviso had been combined.

*Clause 6.*—Article 153 provides that there shall be a Governor for each State. Since it might be desirable in certain circumstances to appoint a Governor for two or more States, it was proposed to add a proviso to this article to remove any possible technical bar to such an appointment.

*Clause 7.*—Sub-clause (a) of clause (1) of article 168 provides for bicameral Legislatures in certain States. It was proposed that, among the reorganised States, Punjab and Mysore should continue to have

such a Legislature, and that the enlarged Madhya Pradesh should also be provided with one. Since the constitution of a Legislative Council for Madhya Pradesh would necessarily take time, it was proposed to bring the relevant amendment of article 168 (1) (a) into force from a future date by means of a public notification of the President.

*Clause 8.*—This sought to revise article 170 mainly with a view to bringing it into line with articles 81 and 82 as revised by clause 4.

*Clause 9.*—Under clause (1) of article 171, the maximum strength of the Legislative Council of a State is fixed at one-fourth of the strength of the Legislative Assembly of that State. Although in the larger States, like Uttar Pradesh and Bihar, this maximum was adequate, it led to difficulties in the case of the smaller States. It was, therefore, proposed to alter the maximum to one-third of the strength of the Legislative Assembly.

*Clause 10.*—Article 216 empowers the President to appoint to a High Court as many judges as he may from time to time deem it necessary and also to fix the maximum number of judges for each High Court by a separate order. The proviso was of little significance from the practical point of view, since the order fixing the maximum might be changed by the President whenever necessary. The appointment of additional and acting judges for which provision was sought to be made in clause 14 would also involve either frequent modifications in the order or a fixation of the maximum number at a high figure. It was therefore, proposed to omit the proviso to article 216.

*Clause 11.*—The amendment of clause (1) of article 217 proposed in this clause was consequential on the proposal to provide for the appointment of additional and acting judges for limited periods.

*Clause 12.*—An important factor affecting the selection of High Court judges from the bar is the total prohibition contained in article 220 on practice after their retirement from the bench. It was proposed to revise the article so as to relax this complete ban and permit a retired judge to practise in the Supreme Court and in any High Court other than the one in which he was a permanent judge.

*Clause 13.*—Article 222 empowers the President to transfer judges from one High Court to another. Clause (2) of this article goes on to provide that when a judge is so transferred he shall be entitled to receive in addition to his salary a compensatory allowance. It was felt that there was no real justification for granting such an allowance and it was accordingly proposed to omit clause (2).

*Clause 14.*—The provision in article 224 for recalling retired judges to function on the bench of a High Court for short periods had been found to be neither adequate nor satisfactory. It was, therefore, proposed to replace this article by a provision for the appointment of additional judges to clear off arrears and for the appointment of acting judges in temporary vacancies.

*Clause 15.*—It was proposed to revise and simplify articles 230, 231 and 232 having regard to the constitutional position of States and Union territories after reorganisation. While under article 214, there should normally be a separate High Court for each State, power should be required to establish common High Courts for two or more States. Power should also be required to extend the jurisdiction of a High Court to a Union territory, wherever necessary, and to exclude the jurisdiction of a High Court from such territory. The revised articles 230 and 231 were designed to make these provisions.

*Clause 16.*—Part VIII of the Constitution provides for the administration of Part C States and Part IX for the administration of Part D territories. It was proposed to amend Part VIII to provide for the administration of Union territories and to repeal Part IX.

*Clause 17.*—While the President was empowered by article 258(1) to entrust Union functions to a State Government or its officers, there was no corresponding provision enabling the Governor of a State to entrust State functions to the Central Government or its officers. This lacuna had been found to be of practical consequence in connection with the execution of certain development projects in the States. It was proposed to fill the lacuna by a new article 258A.

*Clause 18.*—Article VIII of the Covenant entered into by the Rulers of Travancore and Cochin in May 1949 for the formation of United State of Travancore and Cochin provided that Travancore's obligation

to contribute annually a sum of Rs. 51 lakh to the Travancore Devaswom Fund should continue as an obligation of the United State. This arrangement was confirmed by article 238(10) (ii) of the Constitution. It was proposed that the existing arrangement should be continued even after the formation of the new State of Kerala, but the contribution to the Travancore Devaswom Board from the Consolidated Fund of that State should, in view of the transfer of territory from Travancore-Cochin to Madras, be reduced from Rs. 51 lakh to Rs. 46.5 lakh.

*Clause 19.*—In this clause it was proposed to revise and amplify the scope of article 298, mainly to make it clear that the Union Government as well as the State Governments were competent to carry on any commercial or industrial undertaking, whether or not it was related to a matter within the legislative competence of the Union, or, as the case may be, of the State. Similarly, the holding, acquisition and disposal of property and the making of contracts by the Union or a State could be for any purpose without constitutional impropriety. At the same time, the revised article provided that this extended executive power of the Union and of the States would be subject, in the former case, to legislation by the State, and in the latter case, to legislation by Parliament.

*Clause 20.*—The new article 350A proposed in this clause was designed to implement one of the State Reorganisation Commission's important recommendations regarding safeguards for linguistic minorities in the States after reorganisation.

*Clause 21.*—It was proposed to replace article 371 by another article making a special provision with respect to the States of Andhra and Punjab. This article would enable the President to constitute regional committees of the State Legislative Assembly and secure their proper functioning by directing suitable modifications to be made in the rules of business of Government and in the rules of procedure of the Assembly.

*Clause 22.*—The High Court of Travancore-Cochin would, as from the appointed day, become the High Court for the new State of Kerala and the High Courts of Mysore and Rajasthan would continue,

respectively, as the High Courts for the enlarged “new” States with the same names. Taking into account the level of income at the bar and salaries payable to the judicial services in these States, it was considered that there was no need to increase the salaries payable to the Judges of these High Courts to the level of the other High Courts. It was proposed to amend sub-paragraph (1) of paragraph 10 of the Second Schedule to the Constitution providing for a salary of Rs. 3,000 to the Chief Justices and Rs. 2,500 to the other Judges of these three High Courts.

Sometimes it becomes necessary to appoint a retired district Judge as a Judge of a High Court. In the absence of a legal provision for withholding the pension due to such a Judge, it has been the practice to obtain from him an undertaking that he would not claim the pension for the period for which he serves as a High Court Judge. Since this was obviously unsatisfactory, it was proposed to add a proviso to paragraph 10(1) of the Second Schedule on the same lines as the proviso to paragraph 9(1) thereof regulating the salary of a Judge of the Supreme Court in similar circumstances.

Sub-paragraphs (3) and (4) of paragraph 10 were no longer required in view of appropriate provision made in the High Court Judges (Conditions of Service) Act, 1954.

*Clause 23.*—The existence of three entries in the legislative lists (33 of List I, 36 of List II and 42 of List III) relating to the essentially single subject of acquisition and requisitioning of property by the Government were giving rise to unnecessary technical difficulties in legislation. In order to avoid these difficulties and simplify the constitutional position, it was proposed to omit the entries in the Union and State List and replace the entry in the Concurrent List by a comprehensive entry covering the whole subject.

*Clause 24.*—Entry 67 of the Union List refers to “ancient and historical monuments and records, and archaeological sites and remains, declared by Parliament by law to be of national importance”. A large number of ancient monuments, archaeological sites, etc., were declared to be of national importance by an Act of Parliament. It required another

Act of Parliament to make the slightest alteration in, or addition to, the lists in that Act, which was an unduly cumbersome procedure. It was, therefore, proposed to amend the entry substituting for the words “declared by Parliament by law” the words “declared by or under law made by Parliament”. The same amendment was also proposed to be made in the connected provisions, Entry 12 of the State List, Entry 40 of the Concurrent List and article 49.

*Clause 25.*—Although the Union List has two Entries 7 and 52, relating to industries, the latter alone is referred to in Entry 24 of List II. The omission of Entry 7 of List I appeared to be due to an oversight and was sought to be rectified in this clause.

*Clause 26 and the Schedule.*—These contain the consequential and minor amendments and repeals proposed to be made in the Constitution and in the Constitution (Removal of Difficulties) Order No. VIII pertaining to the Assam tribal areas.

#### *Legislative History*

The Constitution (Seventh Amendment) Act, 1956, when introduced in the Lok Sabha on 18 April 1956<sup>70</sup>, was titled as the Constitution (Ninth Amendment) Bill, 1956. The Bill was in a way complementary to the States Reorganisation Bill, 1956 which was also introduced in the Lok Sabha on the same day.

The Constitution (Ninth Amendment) Bill sought to amend a large number of provisions in the Constitution so as to give effect to the scheme of the States reorganisation and also to certain other necessary changes relating to the High Courts and High Court Judges, the executive powers of the Union and the States and the legislative lists. The Bill sought to: (i) amend articles 1, 3, 31A, 49, 58, 66, 72, 73, 80, 101, 112, 131, 151-53, 168, 171, 208, 209, 214, 216, 217, 219, 222, 239, 241, 244, 246, 254, 255, 259, 267, 270, 280, 283, 291, 299, 308-311, 315-318, 320, 323, 324, 332, 333, 337, 339, 341, 343, 348, 356, 361, 366-368, Headings of Parts VI and VIII; The First, Second, Fourth, Fifth and Seventh Schedules; (ii) substitute articles 81, 82, 170, 220, 224, 230-232, 239, 240, 264, 290 and 371, by new articles;

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<sup>70</sup> L.S. Deb., 18 April 1956, c. 5651.

(iii) omit articles 242, 259, 278, 306, 379 to 391, Parts VII and IX;  
 (iv) insert new articles 258A, 290A and 350A in the Constitution and  
 (v) make consequential amendments in the Constitution (Removal of Difficulties) Order No. VIII. On a motion, moved in the Lok Sabha on 26 April adopted on 27 April 1956, and concurred in by the Rajya Sabha on 2 May 1956, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>71</sup>.

The Report of the Joint Committee on the Bill was presented to the Lok Sabha on 16 July 1956<sup>72</sup>. The Committee besides suggesting amendments in some of the clauses of the Bill and its Schedule also proposed insertion of three new clauses. The Bill, as reported by the Joint Committee, was considered by the Lok Sabha on 4, 5 and 6 September and, with some further modifications, passed on 6 September 1956<sup>73</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 10 and 11 September and passed on 11 September 1956<sup>74</sup>.

Meanwhile in August 1956, the State Reorganisation Bill had been passed by Parliament and, having received the President's assent on 31 August 1956, had become an Act which was to be effective from 1 November 1956. The Bill, as finally adopted, differed from the Bill, as introduced, in many respects—the most notable of which was the reversal of the original proposal to break up the existing State of Bombay and reorganise its territories so as to form two new States—Gujarat and Maharashtra—and convert the Greater Bombay district (and some adjacent areas) into a Union territory. In August 1956, Parliament passed another Act having a bearing on the States reorganisation. This was the Bihar and West Bengal (Transfer of territories) Act which received the President's assent on 1 September 1956.

Thus when Parliament took up the Constitution (Ninth Amendment) Bill (as reported by the Joint Committee) for consideration in September 1956, it had to take into account the reorganisation of the States as

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<sup>71</sup> *Ibid.*, 26 and 27 April 1956, cc. 4672-73 and 6595; *R.S. Deb.*, 2 May 1956, cc. 1032, 1120.

<sup>72</sup> *L.S. Deb.*, 16 July 1956, c. 8.

<sup>73</sup> *Ibid.*, 6 September 1956, c. 607.

<sup>74</sup> *R.S. Deb.*, 11 September 1956, c. 4219.

envisioned in the States Reorganisation Act, 1956 and the Bihar and West Bengal (Transfer of territories) Act, 1956.

Two formal amendments to clause 1 of the Bill were made by which the short title of the Act was changed from the “Constitution (Ninth Amendment) Act, 1956” to the “Constitution (Seventh Amendment) Act, 1956” and the date of its commencement altered to 1 November 1956 in place of 1 October 1956 as originally proposed. Both the amendments were adopted by the Lok Sabha on 6 September 1956<sup>75</sup>.

*Amendment of Article 1 and the First Schedule*

Clause 2 (1) of the Bill, as introduced, sought to amend article 1 of the Constitution so as to abolish the three categories of States and classify certain areas as Union territories. Sub-clause (2) of the same clause proposed substitution of the existing First Schedule to the Constitution by a completely revised Schedule following, in broad terms, the reorganisation of the States and the redistribution of their territories as visualised in the States Reorganisation Bill, 1956 (as introduced). Thus, for instance, in conformity with the proposal in the States Reorganisation Bill, the revised First Schedule proposed in the present Bill provided for the formation of two new States (Gujarat and Maharashtra) and a new Union territory (Bombay) out of the territories of the existing State of Bombay. The proposed First Schedule was necessarily of a tentative nature since the States reorganisation scheme had yet to be finalised and approved by Parliament.

The Joint Committee, which reported on 16 July 1956, suggested only one amendment in the proposed First Schedule, and that was for substituting the words “Andhra-Telangana” by the words “Andhra Pradesh.”

Clause 2 of the Bill, as reported by the Joint Committee, was considered by the Lok Sabha on 5 September 1956. It may be recalled that by this date, the State Reorganisation Act, 1956 and the Bihar and

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<sup>75</sup> L.S. Deb., cc. 6039-40 and 6061-62.

West Bengal (Transfer of territories) Act, 1956 had already been placed on the statute book. In keeping with these measures, the Minister of Home Affairs, Pandit G.B. Pant, moved certain amendments, which, in effect, sought two significant changes in the First Schedule to the Constitution as reported by the Joint Committee. These were: (i) retention of the existing State of Bombay, thereby reversing the original proposal to break it up so as to form two new States—Gujarat and Maharashtra, and a new Union territory, *viz.*, “Bombay”; and (ii) redescription of the territories of the States of Bihar and West Bengal in consequence of the transfer of certain areas from the former to the latter as provided for in the Bihar and West Bengal (Transfer of territories) Act, 1956. The amendments, moved by Pt. Pant, were accepted by the House and clause 2 of the Bill, as so amended, was adopted<sup>76</sup>. Later, on 11 September 1956, the clause, as amended by the Lok Sabha, was adopted by the Rajya Sabha<sup>77</sup>.

*Amendment of Article 80 and the Fourth Schedule*

Clause 3 of the Bill, as introduced, proposed certain amendments in article 80, dealing with the composition of the Council of States, and the Fourth Schedule which lays down the allocation of seats in the Council of States to the different States. In effect, the amendments provided for a fresh allocation of seats in the Council of States as a corollary to the territorial and other changes envisaged in the States Reorganisation Bill. The Joint Committee suggested certain changes in the proposed Fourth Schedule so as to provide larger representation to Bombay, Delhi and Himachal Pradesh all of which were to become Union territories under the basic plan of the Bill for the Reorganisation of the States. The Committee felt that the proposed increase in the representation would be justified since Parliament would also be the Legislature for these Union territories.

During consideration of clause 3 of the Bill (as amended by the Joint Committee) by the Lok Sabha, certain amendments, moved by

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<sup>76</sup> *Ibid.*, 5 September 1956, c. 5806.

<sup>77</sup> *R.S. Deb.*, 11 September 1956, c. 4215.

Pt. G.B. Pant, were accepted<sup>78</sup>. Together, these amendments revised the Fourth Schedule to the Constitution to make for a fresh allocation of seats in the Council of States among the different States and the Union territories taking into account the territorial and other changes provided for in the States Reorganisation Act, 1956 and the Bihar and West Bengal (Transfer of territories) Act, 1956. Clause 3 of the Bill, in the amended form, was adopted by the Lok Sabha and the Rajya Sabha on 5 and 11 September 1956, respectively<sup>79</sup>.

#### *Amendment of Articles 81 and 82*

Clause 4 of the Bill sought to substitute new articles for article 81 dealing with the composition of the House of the People and article 82 authorising Parliament to provide by law for the representation in the House of the People of Part "C" States and certain other territories which were not included in any of the States. It may be stated that extensive amendment of these articles had become necessary in view of the proposed abolition of the Part "C" States and the establishment of Union territories under the States reorganisation scheme.

Article 81, as proposed to be revised, provided *inter alia* that the House of the People shall consist of "not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide". The Joint Committee favouring larger representation to the Union territories increased the maximum limit of twenty members to represent these territories to twenty-five members. However, by an amendment, moved by Shri Anandchand in the Lok Sabha, which was accepted, the maximum limit of "twenty members" as proposed in the original clause 4 was resorted. Clause 4 (in the original form) was adopted by the Lok Sabha on 5 September 1956<sup>80</sup> and by the Rajya Sabha on 11 September 1956<sup>81</sup>.

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<sup>78</sup> L.S. Deb., 5 September 1956, cc. 5685, 5699-5700 and 5790.

<sup>79</sup> Ibid., c. 5806; R.S. Deb., 11 September 1956, c. 4215.

<sup>80</sup> L.S. Deb., 5 September 1956, cc. 5696, 5700.

<sup>81</sup> Ibid., c. 5806; R.S. Deb., 11 September 1956, c. 4215.

*Amendment of Article 158*

After clause 6 of the Bill, as introduced in the Lok Sabha, the Joint Committee added a new clause 7 with a view to inserting clause (3A) in article 158 of the Constitution, which deals with the conditions of the Governor's office. According to the Committee, when the same person was appointing Governor for two or more States, as envisaged in clause 6 of the Bill, an express provision for allocating the emoluments and allowances payable to the Governor among those States would be required. The new clause 7, which made the requisite provision in article 158, was adopted, without any amendment, by the Lok Sabha and the Rajya Sabha on 5 and 11 September 1956, respectively<sup>82</sup>.

*Amendment of Article 168*

Clause 7 of the Bill, as introduced, sought to amend article 168 (1)(a) which provides for bicameral Legislatures in certain States. It was proposed that among the reorganised States, Punjab and Mysore should continue to have such a Legislature and that the enlarged Madhya Pradesh State should also be provided with one. However, since the constitution of a Legislative Council for Madhya Pradesh was necessarily to take time, the relevant amendment of article 168 (1) was to be brought into force from such date "as the President may, by public notification appoint." Further, the reference to "Bombay" in the original article 168 (1) (a) was omitted since the proposed scheme of States reorganisation envisaged dissolution of the existing State of Bombay.

The Joint Committee re-numbered clause 7 of the Bill as clause 8. The Committee suggested amendment of the clause so as to provide a Legislative Council for the new State of Maharashtra which was proposed to be set up under the States reorganisation scheme. It did not, however, consider it necessary to amend article 168 (1) (a) for providing the new State of Madhya Pradesh with a Legislative Council. It felt, it would be preferable to leave that State to take the necessary steps under the Constitution after it came into existence. The Committee modified clause 8 accordingly.

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<sup>82</sup> *Ibid.*

In clause 8, as amended by the Joint Committee, three amendments, moved by Pt. G.B. Pant in the Lok Sabha, were accepted<sup>83</sup>. The net effect of these amendments in relation to article 168 (1)(a) may be summed up as follows:

- (i) The existing State of Bombay was to continue to have a bicameral Legislature. This followed the reversal of the original States Reorganisation proposal for the break up of that State.
- (ii) The State of Mysore which already had a bicameral Legislature was now specifically mentioned in article 168 (1)(a) along with the other States having such Legislatures.
- (iii) The new State of Madhya Pradesh was to have a bicameral Legislature from such date as the President may by notification appoint.

Clause 8, as amended, was adopted by the Lok Sabha on 5 September 1956<sup>84</sup>, and by the Rajya Sabha on 11 September 1956<sup>85</sup>.

#### *Amendment of Article 220*

Clause 12 of the original Bill, re-numbered as clause 13 by the Joint Committee, sought to substitute a new article for article 220 of the Constitution so as to relax the complete ban which the original article placed on practice by retired Judges of the High Courts. During the consideration of the clause by the Lok Sabha, Shri B.N. Datar, Minister in the Ministry of Home Affairs, moved an amendment for the addition of an Explanation at the end of the revised article. The amendment was accepted<sup>86</sup>. Clause 13, as amended, was adopted by the Lok Sabha on 5 September 1956 and by the Rajya Sabha on 11 September 1956<sup>87</sup>.

#### *Amendment of Article 224*

Clause 14 of the Bill, re-numbered as clause 15 by the Joint Committee, sought to replace the original article 224 so as to enable the President to appoint additional Judges of High Courts for temporary

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<sup>83</sup> L.S. Deb., 5 September 1956, cc. 5686, 5791.

<sup>84</sup> Ibid., cc. 5805-06.

<sup>85</sup> R.S. Deb., 11 September 1956, c. 4215.

<sup>86</sup> L.S. Deb., 5 September 1956, cc. 5726-5792.

<sup>87</sup> Ibid., cc. 5805-06; R.S. Deb., 11 September 1956, c. 4215. For article 220, as so amended, see the Constitution (Seventh Amendment) Act, 1956 in Annexure (A).

periods for clearing off arrears of work. The Joint Committee proposed addition of a new clause (3) to the revised article in order to make it clear that no person appointed as an additional or acting Judge of a High Court could hold office after attaining the age of 60 years. Clause 15, as amended by the Committee, was adopted by the Lok Sabha and the Rajya Sabha on 5 and 11 September 1956, respectively<sup>88</sup>.

*Amendment of Part VIII and Articles 239 and 240*

Part VIII of the Constitution, as originally enacted, was titled “The States in Part ‘C’ of the First Schedule”. Articles 239 and 240 of this Part provided, respectively for the administration of the Part “C” States and the continuance of the local Legislatures or Council of Advisers or Ministers. Clause 16 (a) of the Bill, as introduced, proposed the replacement of the heading of this Part by new heading, *viz.*, “The Union territories”, while clause 16 (b) sought substitution of the original articles 239 and 240 by the following:

239. Every Union territory shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him.

Provided that the President may, by regulation made under article 240, constitute for any such territory as council of advisers to the Chief Commissioner or other authority with such functions as may be specified in the regulation.

240. The President may make regulations for the peace and good government of any Urban territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to any such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

The Joint Committee while re-numbering clause 16 of the Bill as clause 17 also made significant changes in the proposed articles 239 and 240. The two articles, as revised by the Committee, read:

239. (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to

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<sup>88</sup> *Ibid.*

such extent as he thinks fit, through an Administrator or other authority to be appointed by him.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the Administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such Administrator independently of his Council of Ministers.

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

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

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

Explaining the changes made by it in the proposed articles, the Committee, observed, *inter alia*:

- (i) As regards article 239, the Committee consider that the general provision for Central Administration of Union territories must be expressly made subject to whatever legislation Parliament may enact in that behalf.
- (ii) As regards the proposed article 240, the Committee consider that the regulation making power of the President should be restricted to the Andaman and Nicobar Islands and the Laccadive, Minicoy and Amindivi Islands, and that in regard to the other Union territories, Parliament should be the law-making body.

In articles 239 and 240, as amended by the Joint Committee, two amendments (one moved by Pt. G.B. Pant and another moved by Shri H.V. Kamath) were accepted. By one of these, the words "Administrator or other authority to be appointed by him" in clause (1) of the proposed article 239 were substituted by the words "Administrator

to be appointed by him with such designation as he may specify". The second amendment inserted the word "progress" after the word "peace" in clause (1) of the proposed article 240. With these amendments, clause 17 was adopted by the Lok Sabha and Rajya Sabha on 6 and 11 September 1956, respectively<sup>89</sup>.

#### *Insertion of New Article 290A*

Clause 18 of the Bill, as introduced, sought to introduce a new article 290A in the Constitution which read:

290A. A sum of forty-six lakh 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 Board.

The Joint Committee besides re-numbering clause 18 as clause 19, amplified the proposed new article 290A by providing for an annual charge of Rs. 13.5 lakh on the Consolidated Fund of the State of Madras for the maintenance of Hindu temples and shrines in the territories which were to be transferred to that State from the State of Travancore-Cochin. With a minor formal amendment, clause 19, as reported by the Joint Committee, was adopted by both the Houses—by the Lok Sabha on 6 September 1956 and by the Rajya Sabha on 11 September 1956<sup>90</sup>.

#### *Insertion of New Articles 350A and 350B*

Clause 20 of the Bill, as introduced, proposed insertion of a new article 350A in the Constitution requiring every State and local authority to endeavour to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. The new provision was designed to implement one of the States Reorganisation Commission's important recommendations regarding safeguards for linguistic minorities in the States after reorganisation. The Joint Committee re-numbered clause 20 as clause 21.

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<sup>89</sup> L.S. Deb., 6 September 1956, cc. 5833, 5861 and 6057-58; R.S. Deb., 11 September 1956, c. 4215.

<sup>90</sup> Ibid., cc. 6057-58; Ibid, c. 4215.

During consideration of clause 21 (as so re-numbered) by the Lok Sabha, Shri B.N. Datar, Minister in the Ministry of Home Affairs, moved an amendment seeking insertion of another new article, article 350B, after the proposed article 350A. New article 350B as proposed by Shri Datar read:

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 minority groups 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.

In the above amendment moved by Shri Datar, two amendments—one moved by Shri Pataskar, Minister of Legal Affairs and the other by Shri Frank Anthony—were accepted<sup>91</sup>. Shri Pataskar's amendment proposed that at the end of clause (2) of the new article 350B, the words “and sent to the Government of the States concerned” be added. Shri Anthony's amendment sought replacement of the words “minority groups” in clause (2) by the word “minorities”. With these changes, clause 21 was adopted by the Lok Sabha and the Rajya Sabha on 6 and 11 September 1956, respectively<sup>92</sup>.

#### *Amendment of Article 371*

Clause 21 of the Bill, as introduced in the Lok Sabha, sought to substitute a new article for article 371 of the Constitution. The proposed article 371 read as follows:

371. Notwithstanding anything in this Constitution, the President may, by order made with respect of the State of Andhra-Telangana or Punjab, provide for the constitution and functions of regional committees of the Legislative Assembly of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the

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<sup>91</sup> L.S. Deb., 6 September 1956, cc. 5909, 5935.

<sup>92</sup> Ibid., cc. 6057-6058; R.S. Deb., 11 September 1956, c. 4215.

State and for any special responsibility of the Governor in order to secure the proper functioning of the regional committees.

Clause 21 was re-numbered by the Joint Committee as clause 22. The Joint Committee also re-numbered the proposed article 371 as clause (1) thereof and replaced the words “Andhra-Telangana” therein by the words “Andhra Pradesh”.

After the said clause (1), the Committee added a new clause (2) which, in effect, authorised the President to entrust the Governor of the proposed new State of Maharashtra with a special responsibility in regard to the development of the three main regional divisions of the new State.

As noted earlier, the proposal contained in the States Reorganisation Bill (as introduced) for forming two new States of Gujarat and Maharashtra out of the existing State of Bombay, was later dropped and the States Reorganisation Act provided for the continuance of Bombay as a composite State. In view of this, the proposed clause (2) of article 371 had to be suitably modified. Appropriate amendments to this end were moved in the Lok Sabha by Shri Pataskar and were adopted<sup>93</sup>. In effect, with certain changes clause (2) of article 371 was made applicable to the State of Bombay.

With these amendments, clause 22 was adopted by the Lok Sabha and the Rajya Sabha on 6 and 11 September, respectively<sup>94</sup>.

#### *Insertion of new Article 372A*

By a new clause 23, the Joint Committee proposed the insertion of a new article 372A empowering the President to make an adaptation of laws by order. The Committee felt that such an order would be necessary in view of the various constitutional changes proposed in the amending Bill.

With a minor alteration, clause 23 and new article 372A were adopted by both the Houses of Parliament<sup>95</sup>.

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<sup>93</sup> L.S. Deb., 6 September 1956, cc. 5989, 6027.

<sup>94</sup> Ibid., cc. 6057-6058; R.S. Deb., 11 September 1956, c. 4215.

<sup>95</sup> Ibid., cc. 6033, 6044 and 6057; Ibid.

*Insertion of New Article 378A*

By a new clause 24, the Joint Committee proposed the insertion of a new article 378A in the Constitution with a view to making a special provision as to the duration of the Legislative Assembly of Andhra Pradesh. The new article 378A, as proposed by the Committee, read as follows:

378A. Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh existing at the date of commencement of the Constitution (Ninth Amendment) Act, 1956 shall, unless sooner dissolved, continue for a period of five years and six months from that date and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.

In the proposed new article, two amendments, moved by Shri C.R. Narasimhan in the Lok Sabha, were accepted<sup>96</sup>. These amendments substituted: (i) the words and figures “as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956” for the words, brackets and figures “existing at the date of commencement of the Constitution (Ninth Amendment) Act, 1956”; (ii) the words and figures “five years from the date referred to in the said section 29” for the words “five years and six months from that date.”

Clause 24 was adopted, in this amended form, by the Lok Sabha and the Rajya Sabha on 6 and 11 September 1956, respectively<sup>97</sup>.

*Amendment of the Second Schedule*

Clause 22 of the Bill, as introduced, proposed a number of amendments in Part D of the Second Schedule to the Constitution. The heading of Part D, as originally enacted, was “Provisions as to the Judges of the Supreme Court and of the High Courts in States in Part A of the First Schedule.” The important changes sought to be effected in the said Part by the amending clause were:

- (i) The words “In States in Part A of the First Schedule” in the heading of the Part were to be omitted so that the provisions of the Part would become applicable to all States.

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<sup>96</sup> L.S. Deb., 6 September 1956, cc. 6033, 6044.

<sup>97</sup> Ibid., c. 6061; R.S. Deb., 11 September 1956, c. 4212.

- (ii) Judges of the Kerala, Mysore and Rajasthan High Courts were to be given salaries at a lower rate than that provided for the Judges of the other High Courts.
- (iii) In order to adjust any pension which a High Court Judge might be in receipt of with his salary as such Judge, a proviso on the lines of the proviso to Paragraph 9 (1) of the Second Schedule (regulating the salary of a Judge of the Supreme Court in similar circumstances) was to be added in Paragraph 10 (1).
- (iv) Sub-paragraphs (3) and (4) of Paragraph 10 were to be deleted since appropriate provision in regard to the matters dealt with in these sub-paragraphs (reimbursement of travelling expenses, rights in respect of leave and pension), had been made in the High Court Judges (Conditions of Service) Act, 1954.

The Joint Committee re-numbered clause 22 of the Bill as clause 25. The distinction made in the original clause between the Judges of the Kerala, Mysore and Rajasthan High Courts and the Judges of other High Courts in the matter of salaries did not find favour with the Committee. The Committee, therefore, amended the clause providing for the same salary to the Judges of all High Courts. The Committee also proposed an amendment in the proposed proviso to Paragraph 10(1), and a similar amendment in the proviso to Paragraph 9(1) relating to Judges of the Supreme Court. These amendments provided for the cases where a Judge in receipt of a pension for previous service had, before appointment, either commuted a portion of his pension or received a retirement gratuity in addition to pension. The Committee proposed that in either case his salary should be further reduced by the amount of the commuted portion of the pension or the pension equivalent of the gratuity, as the case may be.

In clause 25 (as so re-numbered and as amended by the Joint Committee), an amendment moved by Shri Datar in the Lok Sabha was accepted<sup>98</sup>. This amendment sought to replace the original sub-paragraphs (3) and (4) of Paragraph 10 in the Second Schedule, by a new sub-paragraph (3) making a special provision in respect of certain

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<sup>98</sup> L.S. Deb., 5 September 1956, c. 5731.

Chief Justices of High Courts who had earlier held a similar office in any of the former Part B States<sup>99</sup>.

With these changes, clause 25 amending the Second Schedule was adopted by the Lok Sabha and Rajya Sabha on 5 and 11 September 1956, respectively<sup>100</sup>.

#### *Consequential and Minor Amendments and Repeals in the Constitution*

The Schedule to the Bill provided for consequential and minor amendments and repeals in the Constitution. Broadly speaking, these amendments and repeals were consequential to the abolition of the three categories of States and the classification of certain areas as Union territories. With certain changes effected by the Joint Committee and at the consideration stage, the Schedule was adopted by the Lok Sabha and the Rajya Sabha on 6 and 11 September 1956, respectively<sup>101</sup>.

#### *Important Provisions of the Act*

The Act came into force on 1 November 1956. (Section 1)

The amended article 1 abolishes the three categories of States (Part A, Part B and Part C States) and classifies certain areas as Union territories. The areas and boundaries of the State and the Union territories are laid down in the First Schedule which has been completely revised to reflect the alterations effected by the reorganisation scheme. (Section 2)

Certain formal and consequential amendments have been made in article 80 while the Fourth Schedule, which lays down the allocation of seats in the Council of States, has been completely revised. (Section 3)

Articles 81 and 82 have been re-enacted. The revised article 81 provides that the House of the People shall consist of a maximum of

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<sup>99</sup> For Text of the provision see the Constitution (Seventh Amendment) Act, 1956 in Annexure (A).

<sup>100</sup> L.S. Deb., 5 September 1956, c. 5806; R.S. Deb., 11 September 1956, c. 4215.

<sup>101</sup> Ibid., 6 September 1956, c. 6058; Ibid.

500 members directly elected from territorial constituencies in the States and a maximum of 20 members chosen from the Union territories in such manner as Parliament may by law provide. The provision in the original article 81(b) that “the States shall be divided, grouped or formed into territorial constituencies” has been dropped. A provision has been made for re-adjustment in the allocation of seats to the States and the division of each State into territorial constituencies after each census. (Section 4)

Article 131 has been substituted to provide that the jurisdiction of the Supreme Court 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. (Section 5)

A proviso has been added to article 153 making it possible that the same person may be appointed as Governor for two or more States. (Section 6)

Article 168(1)(a) has been amended to provide that the State of Madhya Pradesh shall have a bicameral Legislature as from such date as the President may by public notification appoint. Article 170, which relates to the composition of State Legislative Assemblies, has been amended to bring it into line with articles 81 and 82 as revised by this Act. The maximum strength of the Legislative Council of a State has been raised from one-fourth to one-third of the strength of the Legislative Assembly of that State by amending article 171. (Sections 8, 9 and 10)

Article 217(1) has been amended to enable every Judge of the High Court to hold office, in the case of additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years. (Section 11)

The Act relaxed the complete ban on practice by retired Judges of the High Courts by amending article 220. A retired Judge can henceforth practice in the Supreme Court and in any High Court other than the one in which he was a permanent Judge. (Section 13)

Section 15 has amended article 224 so as to enable the President to appoint additional Judges to clear arrears and acting Judges in temporary vacancies.

Article 230 has been revised to enable Parliament to extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory. By amending article 231, Parliament has been empowered to establish a common High Court for two or more States. (Section 16)

The original article 239 has been re-enacted to provide for the administration of a Union territory by the President acting, to such extent as he thinks fit, through an Administrator to be appointed by him. This would, however, be subject to any law made by Parliament. The President may also appoint the Governor of a State as the Administrator of an adjoining Union territory; where a Governor is so appointed, he shall exercise his function as such Administrator independently of his Council of Ministers. Article 240 has also been re-enacted to empower the President to make regulations for the peace, progress and good government of the Union territory of: (a) the Andaman and Nicobar Islands and (b) the Laccadive, Minicoy and Amindivi Islands. Any regulation so made may repeal or amend any Act made by Parliament or any existing law applicable to the Union territory for the time being. (Section 17)

The Act inserted a new article 258A which provides that the Governor of a State may, with the consent of the Government of India, entrust any State functions to the Central Government or its officers. (Section 18)

A new article 290A has been inserted to provide annual payment to certain Devaswom Funds. (Section 19)

Article 298 has been substituted by a new article which makes it clear that the Union Government and the State Governments are competent to carry on any trade or business and to acquire, hold and dispose of property and make contracts for any purpose, whether or not it is a matter within the legislative competence of the Union, or, as the case may be of the State. However, such extended executive power of the Union and of the States will be subject, in the former

case, to legislation by the State, and in the latter case, to legislation by Parliament. (Section 20)

The new article 350A has enjoined every State to provide facilities for instruction in mother tongue at the primary stage to children belonging to linguistic minority groups and empowers the President to issue directions to any State for securing the provision of such facilities. Another new article 350B provides for appointment by the President of Special Officers whose duty shall be to investigate all matters relating to safeguards provided for linguistic minorities under the Constitution and to report to the President upon those matters. These reports shall be laid before each House of Parliament and sent to the Governments of the States concerned. (Section 21)

Article 371 has been replaced by another article enabling the President to constitute regional committees of the State Legislative Assemblies of Andhra Pradesh and Punjab and secure their proper functioning by directing suitable modifications to be made in the rules of business of Government and in the rules of procedure of the Assembly and by providing for any special responsibility of the Governor. With respect to the State of Bombay too, the President is empowered to provide for any special responsibility of the Governor for the establishment of separate development boards in different regions of the State, the equitable allocation of funds for developmental expenditure over the different regions and an equitable arrangement providing adequate facilities in technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of the different areas. (Section 22)

A new article 372A has been inserted to empower the President to make such adaptations and modifications in any law to bring them into accord with the Constitution of India as amended by the Seventh Amendment Act. (Section 23)

Of the three entries in the legislative lists relating to the acquisition and requisitioning of property, Entry 33 of the Union List and Entry 36 of the State List have been omitted while Entry 42 of the Concurrent List has been replaced by a more comprehensive entry covering the whole subject. (Section 26)

## VIII

### THE CONSTITUTION (EIGHTH AMENDMENT) ACT, 1960<sup>102</sup>

#### *Objects and Reasons of the Bill*

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. Although the Scheduled Castes and Scheduled Tribes had made considerable progress in the last ten years, the reasons which weighed with the Constituent Assembly in making provision for the aforesaid reservation of seats and nomination of members had not ceased to exist. It was, therefore, proposed to continue the reservation and the representation of Anglo-Indians by nomination for a further period of ten years.

In extending the period of nomination of members of the Anglo-Indian community, it was proposed to fix the number of such members who might be nominated by Governors to State Assemblies and an amendment of article 333 is accordingly proposed.

#### *Legislative History*

The Constitution (Eighth Amendment) Bill, 1959 was introduced

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<sup>102</sup> Bill No. 79 of 1959; Introduced in Lok Sabha by the Minister of Home Affairs, Pt. G.B. Pant on 16 November 1959; Debated, Lok Sabha: 30 November and 1 December 1959; Rajya Sabha: 7 December 1959; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bombay, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal; President's Assent: 5 January 1960; Date of Gazette Notification: 6 January 1960; Date of Commencement: 5 January 1960.

in the Lok Sabha on 16 November 1959<sup>103</sup>. The Bill sought to amend articles 333 and 334 of the Constitution.

The Bill was considered by the Lok Sabha on 30 November and 1 December and, with the omission of clause 2, passed on 1 December 1959<sup>104</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 7 December 1959<sup>105</sup>.

During consideration of the Bill by the Lok Sabha, the motion for the adoption of clause 2, which sought to amend article 333 of the Constitution, was lost as it was not carried by a majority of the total membership of the House (though more than two-thirds of the members present and voting had voted in favour of the motion). The said clause was, therefore, omitted from the Bill<sup>106</sup>.

Clause 3 of the Bill, seeking amendment of article 334, was adopted, in the original form, by the Lok Sabha on 1 December 1959<sup>107</sup>. It was re-numbered as clause 2 and adopted by the Rajya Sabha on 7 December 1959<sup>108</sup>.

#### *Important Provisions of the Act*

The Act has amended article 334 of the Constitution in order to provide for the extension of reservation of seats for the Scheduled Castes and Scheduled Tribes and representation of the Anglo-Indians in the House of the People and the State Legislative Assemblies for another ten years. (Section 2)

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<sup>103</sup> *L.S. Deb.*, 16 November 1959, c. 120.

<sup>104</sup> *Ibid.*, 1 December 1959, c. 2759.

<sup>105</sup> *R.S. Deb.*, 7 December 1959, c. 1642.

<sup>106</sup> *L.S. Deb.*, 1 December 1959, c. 2759.

<sup>107</sup> *Ibid.*, c. 2763.

<sup>108</sup> *R.S. Deb.*, 7 December 1959, c. 1634.

## IX

### THE CONSTITUTION (NINTH AMENDMENT) ACT, 1960<sup>109</sup>

*Objects and Reasons of the Bill*

Agreements between the Governments of India and Pakistan dated 10 September 1958, 23 October 1959 and 11 January 1960 settled certain boundary disputes between the Governments of India and Pakistan relating to the borders of the States of Assam, Punjab and West Bengal and the Union territory of Tripura.

According to these Agreements, certain territories were to be transferred to Pakistan after demarcation. In the light of the Advisory Opinion of the Supreme Court in Special Reference No. 1 of 1959, it was proposed to amend the First Schedule to the Constitution under a law relatable to article 368 thereof to give effect to the transfer of these territories.

*Legislative History*

The Constitution (Ninth Amendment) Bill 1960 was introduced in the Lok Sabha on 16 December 1960<sup>110</sup>. The Bill sought to amend the First Schedule to the Constitution with a view to giving effect to the transfer of certain territories to Pakistan in pursuance of the Agreements entered into between the Governments of India and Pakistan.

The Bill was considered by the Lok Sabha on 19 and 20 December and passed in the original form on 20 December 1960<sup>111</sup>. The Bill as passed by the Lok Sabha, was considered by the Rajya Sabha on 22 and 23 December and passed on 23 December 1960<sup>112</sup>.

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<sup>109</sup> Bill No. 90 of 1960; Introduced in Lok Sabha by the Prime Minister Shri Jawaharlal Nehru on 16 December 1960; Debated, Lok Sabha: 19 and 20 December 1960; Rajya Sabha: 22 and 23 December 1960; President's Assent: 28 December 1960; Date of Gazette Notification: 29 December 1960; Date of Commencement: 28 December 1960.

<sup>110</sup> L.S. Deb., 16 December 1960, cc. 6013-14.

<sup>111</sup> Ibid., 20 December 1960, c. 6609.

<sup>112</sup> R.S. Deb., 23 December 1960, c. 3387.

*Important Provisions of the Act*

The Act has provided for amendment of the First Schedule to the Constitution so as to give effect to the transfer of certain territories to Pakistan in pursuance of the Agreements between the Governments of India and Pakistan from the appointed date to be notified by the Central Government to that effect. (Sections 2-3)

**X****THE CONSTITUTION (TENTH AMENDMENT)  
ACT, 1961<sup>113</sup>***Objects and Reasons of the Bill*

The people and the Varishta Panchayat of free Dadra and Nagar Haveli repeatedly affirmed their request to the Government of India for integration of their territories with the Union of India to which they rightly belong. Their request was recently embodied in a formal Resolution adopted by the Varishta Panchayat on 12 June 1961.

In deference to the desire and request of the people of free Dadra and Nagar Haveli for integration of their territories with the Union of India, the Government of India decided that these territories should form part of the Union of India.

It was proposed to specify these areas expressly as the Union territory of Dadra and Nagar Haveli by amending the First Schedule to the Constitution. It was further proposed to amend clause (1) of article 240 of the Constitution to include therein the Union territory of Dadra and Nagar Haveli in order to enable the President to make regulations for the peace, progress and good government of the territory.

The Bill sought to give effect to these proposals.

*Legislative History*

The Constitution (Tenth Amendment) Bill, 1961 was introduced in the Lok Sabha on 11 August 1961<sup>114</sup>. The Bill sought to amend article 240 and the First Schedule to the Constitution.

<sup>113</sup> Bill No. 43 of 1961; Introduced in Lok Sabha by the Minister of Home Affairs, Pt. G.B. Pant on 11 August 1961; Debated, Lok Sabha; 14 August 1961; Rajya Sabha: 16 August 1961; President's Assent: 16 August 1961; Date of Gazette Notification: 17 August 1961; Date of Commencement: 11 August 1961.

<sup>114</sup> L.S. Deb., 11 August 1961, c. 1658.

The Bill was considered and passed in the original form by the Lok Sabha on 14 August 1961<sup>115</sup> and by the Rajya Sabha on 16 August 1961<sup>116</sup>.

*Important Provisions of the Act*

The Act has been given retrospective effect from 11 August 1961. (Section 1)

The First Schedule to the Constitution has been amended to include Dadra and Nagar Haveli as the seventh Union territory. The Act also amended clause (1) of article 240 of the Constitution to include therein the Union territory of Dadra and Nagar Haveli in order to enable the President to make regulations for the peace, progress and good government of the territory. (Sections 2-3)

## XI

### **THE CONSTITUTION (ELEVENTH AMENDMENT) ACT, 1961<sup>117</sup>**

*Objects and Reasons of the Bill*

Under article 66(1) of the Constitution, the Vice-President was to be elected by members of both Houses of Parliament assembled at a joint meeting. The requirement that members of the two Houses should assemble at a joint sitting for the election of the Vice-President seemed to be totally unnecessary and might also cause practical difficulties. It was, therefore, proposed to amend this article to provide that the Vice-President be elected by members of an electoral college consisting of members of both Houses of Parliament. Under article 54 of the Constitution, the President is elected by an electoral college consisting of the elected members of both Houses of Parliament and of the

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<sup>115</sup> *Ibid.*, 14 August 1961, c. 2157.

<sup>116</sup> *R.S. Deb.*, 16 August 1961, c. 403.

<sup>117</sup> Bill No. 66 of 1961; Introduced in Lok Sabha by the Minister of Law, Shri A.K. Sen on 30 November 1961; Debated, Lok Sabha: 5 December 1961; Rajya Sabha: 12 December 1961; President's Assent: 19 December 1961; Date of Gazette Notification: 20 December 1961; Date of Commencement: 19 December 1961.

Legislative Assemblies of the States. Despite the efforts to complete such elections before the date of the Presidential election, it was possible that the elections to the two Houses of Parliament might not be completed before the President or the Vice-President is elected. It was, therefore, proposed to amend article 71 of the Constitution so that the election of the President or the Vice-President is not challenged on the ground of any vacancy for any reason in the appropriate electoral college.

The Bill sought to achieve these objects.

#### *Legislative History*

The Constitution (Eleventh Amendment) Bill, 1961 was introduced in the Lok Sabha on 30 November 1961<sup>118</sup>. The Bill sought to amend articles 66 and 71 of the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 5 December 1961 and by the Rajya Sabha on 12 December 1961<sup>119</sup>.

#### *Important Provisions of the Act*

Article 66 of the Constitution contains provisions for the election of Vice-President. This article has been amended to provide that the Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament thereby dispensing with the earlier requirement of joint meeting of members of both Houses of Parliament assembled for the said purpose. (Section 2)

A new clause (4) has been inserted in article 71 of the Constitution to clarify that the election of President or Vice-President cannot be challenged on the ground of the existence of any vacancy for whatever reason in the appropriate electoral college. (Section 3)

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<sup>118</sup> L.S. Deb., 30 November 1961, c. 2402.

<sup>119</sup> Ibid., 5 December 1961, c. 3351; R.S Deb., 12 December 1961, c. 2116.

## XII

### **THE CONSTITUTION (TWELFTH AMENDMENT) ACT, 1962<sup>120</sup>**

*Objects and Reasons of the Bill*

On the acquisition of the territories of Goa, Daman and Diu with effect from 20 December 1961, these territories had, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date and were being administered as a Union territory by the President through an Administrator in accordance with article 239 of the Constitution. It was, however, considered desirable that Goa, Daman and Diu should be specifically included as a Union territory in the First Schedule to the Constitution. It was also considered that clause (1) of article 240 should be suitably amended to confer power on the President to make regulations for the peace, progress and good government of Goa, Daman and Diu as had been done in the case of Dadra and Nagar Haveli. The Bill sought to make the above mentioned provisions.

*Legislative History*

The Constitution (Twelfth Amendment) Bill, 1962 was introduced in the Lok Sabha on 12 March 1962<sup>121</sup>. The Bill sought to amend article 240 and the First Schedule to the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 14 March 1962 and by the Rajya Sabha on 20 March 1962<sup>122</sup>.

*Important Provisions of the Act*

The Act has been given retrospective effect from 20 December 1961. (Section 1)

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<sup>120</sup> Bill No. 3 of 1962; Introduced in Lok Sabha by the Prime Minister Shri Jawaharlal Nehru on 12 March 1962; Debated, Lok Sabha: 14 March 1962; Rajya Sabha: 20 March 1962; President's Assent: 27 March 1962; Date of Gazette Notification: 28 March 1962; Date of Commencement: 20 December 1961.

<sup>121</sup> L.S. Deb., 12 March 1962, c. 37.

<sup>122</sup> Ibid., 14 March 1962, c. 327; R.S. Deb., 20 March 1962, c. 842.

The First Schedule to the Constitution has been amended to include Goa, Daman and Diu as the eighth Union territory. (Section 2)

In order to enable the President to make regulations for peace, progress and good government of the Union territory of Goa, Daman and Diu, clause (1) of article 240 of the Constitution has been amended to include therein these territories. (Section 3)

### XIII

#### **THE CONSTITUTION (THIRTEENTH AMENDMENT) ACT, 1962<sup>123</sup>**

##### *Objects and Reasons of the Bill*

In July 1960, an agreement was reached by the Government of India with the leaders of the Naga Peoples Convention under which it was decided that Naga Hills-Tuensang Area (Nagaland), which was a Part ‘B’ tribal area within the State of Assam, would be formed into a separate State in the Union of India.

The Agreement *inter alia* provided that:

- (a) the Governor of the State of Nagaland shall have special responsibility for law and order for so long as the law and order situation continues to remain disturbed on account of hostile activities;
- (b) the Governor shall have general responsibility with regard to the funds made available to the new State by the Government of India;
- (c) the administration of the Tuensang District of Nagaland shall be carried on by the Governor for a period of ten years during which it is expected that the people of that area would be in a position to shoulder fuller responsibilities of administration.

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<sup>123</sup> Bill No. 72 of 1962; Introduced in Lok Sabha by the Prime Minister Shri Jawaharlal Nehru on 21 August 1962; Debated, Lok Sabha: 28 August 1962; Rajya Sabha: 3 September 1962; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Jammu and Kashmir, Kerala, Madras, Maharashtra, Mysore, Punjab, Rajasthan, Uttar Pradesh, and West Bengal; President’s Assent: 28 December 1962; Date of Gazette Notification: 29 December 1962; Date of Commencement: 2 December 1963.

A Regional Council is to be formed for the said Tuensang District comprising elected representatives from the tribes therein. This Regional Council will supervise and guide the working of the Village, Range and Area Councils in that district and further no law passed by the Nagaland Legislature will extend to that district unless so recommended by the Regional Council;

- (d) Acts of Parliament shall not apply to Nagaland unless so decided by the Nagaland Legislature with regard to:
- (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.

As these matters were peculiar to the proposed new State of Nagaland, provision with respect thereto had to be made in the Constitution itself. This Bill accordingly sought to amend the Constitution to provide for the aforesaid matters and matters ancillary thereto. A separate Bill for the formation of the new State relatable to article 3 was also intended to be introduced.

#### *Legislative History*

The Constitution (Thirteenth Amendment) Bill, 1962 was introduced in the Lok Sabha on 21 August 1962<sup>124</sup>. The Bill sought to: (i) amend Part XXI and (ii) insert a new article 371A in the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 28 August 1962 and by the Rajya Sabha on 3 September 1962<sup>125</sup>.

#### *Important Provisions of the Act*

In Part XXI (articles 369-392) of the Constitution, the heading “Temporary and Transitional Provisions” has been substituted by “Temporary, Transitional and Special Provisions.” [Section 2(a)]

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<sup>124</sup> L.S. Deb., 21 August 1962, c. 3181.

<sup>125</sup> Ibid., 28 August 1962, c. 4645; R.S. Deb., 3 September 1962, c. 4731.

Section 2(b) of the Act has inserted a new article 371A providing the following special provisions with respect to the State of Nagaland:

No Act of Parliament, affecting religious or social practices of the Nagas, Naga Customary Law and Procedure; administration of civil and criminal justice involving decisions according to Naga Customary Law, and ownership and transfer of land and its resources shall apply to the State of Nagaland unless the State Legislature decides so by a resolution.

The Governor of Nagaland shall have special responsibility for law and order in the State so long as, in his opinion, internal disturbances in the Naga Hills-Tuensang Area continue. The Governor is also empowered to exercise, after consulting the Council of Ministers, his individual judgement as to the action to be taken in this regard. The decision taken by the Governor shall be final. The President may, if satisfied that the special circumstances no longer exist in the State, withdraw these special responsibilities of the Governor.

The Governor shall ensure that any money provided for any specific service or purpose, by the Government of India, out of the Consolidated Fund, is included in the Demand for Grant relating to that service or purpose only.

The Governor shall establish, by public notification, a regional council for Tuensang district consisting of thirty-five members and, in his discretion, make rules *inter alia* providing for the composition of the regional council, the manner of the selection of members, their qualification and terms of office, salaries, etc. and the procedure and conduct of business of the regional council.

The Governor is authorized to carry on the administration and make regulations for the peace, progress and good government of the Tuensang district for a period of ten years and more, if necessary. No Act of Legislature of Nagaland shall apply to this district, unless the Governor, on the recommendation of the regional council, so directs. The Governor at his discretion shall arrange for an equitable allocation of the money provided by the Government of India for the requirement of the Government of Nagaland, between this district and the rest of the State. Further, the Governor on the advice of the Chief Minister shall appoint a Minister for Tunesang district from among the members of Legislature representing the Tuensang district. However, the final

decision on all matters relating to this district shall be made by the Governor in his discretion.

The references to the elected members of the Legislative Assembly of a State or to each such member, in articles 54, 55 and 80 (4) of the Constitution, include references to member or members of the Legislative Assembly of Nagaland.

In relation to the Legislative Assembly of Nagaland, clause (1) of article 170 of the Constitution, has effect as if for the word “sixty” the words “forty-six” have been substituted. The reference to direct election from territorial constituencies in the State also includes election by the members of the regional council established under the new article. In clauses (2) and (3) of article 170, references to territorial constituencies mean references to territorial constituencies in Kohima and Mokokchung districts.

The President is empowered, at his discretion within three years from the date of the formation of the State of Nagaland, to remove any difficulty in giving effect to any provision of the new article. (Section 3)

## XIV

### **THE CONSTITUTION (FOURTEENTH AMENDMENT) ACT, 1962<sup>126</sup>**

#### *Objects and Reasons of the Bill*

With the ratification of the Treaty of Cession by the Governments of India and France, on 16 August 1962, the French establishments of Pondicherry, Karaikal, Mahe and Yanam became territories of the Indian Union with effect from that date. This Bill provided for these territories being specified in the Constitution itself as a Union territory called ‘Pondicherry’. Under article 81(1)(b) of the Constitution, not more

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<sup>126</sup> Bill No. 86 of 1962; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Lal Bahadur Shastri on 30 August 1962; Debated, Lok Sabha: 4 September 1962; Rajya Sabha: 7 September 1962; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Jammu and Kashmir, Kerala, Madras, Maharashtra, Mysore, Punjab, Rajasthan, Uttar Pradesh and West Bengal; President’s Assent: 28 December 1962; Date of Gazette Notification: 29 December 1962; Date of Commencement: 28 December 1962.

than twenty members were to represent the Union territories in the House of the People. This maximum had already been reached. The Bill accordingly sought to increase this number to twenty-five to enable representation being given immediately to Pondicherry in the House of the People and to provide for future contingencies. The Bill also provided for representation of the territory in the Council of States.

It was proposed to create Legislatures and Councils of Ministers in the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Pondicherry broadly on the pattern of the scheme which was in force in some of the Part C States before the reorganisation of the States. The Bill sought to confer necessary legislative power on Parliament to enact laws for this purpose through a new article 239A which follows generally the provisions of article 240 as it stood before the reorganisation of the States.

#### *Legislative History*

The Constitution (Fourteenth Amendment) Bill, 1962 was introduced in the Lok Sabha on 30 August 1962<sup>127</sup>. The Bill sought to: (i) amend articles 81 and 240 and the First and the Fourth Schedules to the Constitution and (ii) insert a new article 239A in the Constitution.

The Bill was considered and, with some modifications, passed by the Lok Sabha on 4 September 1962<sup>128</sup>. The Bill, as passed by the Lok Sabha, was passed by the Rajya Sabha on 7 September 1962<sup>129</sup>.

Clauses 1, 2, 3 and 5 to 7 of the Bill were adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 4 and 7 September 1962, respectively<sup>130</sup>.

#### *Insertion of New Article 239A*

Clause 4 of the Bill sought to insert a new article 239A in the Constitution, authorising Parliament to create by law Legislatures and

<sup>127</sup> L.S. Deb., 30 August 1962, c. 5307.

<sup>128</sup> Ibid., 4 September 1962, c. 5962.

<sup>129</sup> R.S. Deb., 7 September 1962, c. 5758.

<sup>130</sup> L.S. Deb., 4 September 1962, cc. 5913, 5930 and 5971; R.S. Deb., 7 September 1962, cc. 5696, 5712, 5730, 5743, 5748 and 5752.

Councils of Ministers for certain Union territories. In clause 1(a) of the new article, an amendment, moved by Shri Hari Vishnu Kamath in the Lok Sabha, was accepted<sup>131</sup>. The amendment was to the effect that in clause 1(a) of the new article 239A, the words “nominated or” after the word “whether” be omitted. The effect of the amendment was that the Legislatures of the Union territories could not be wholly nominated bodies. Clause 4, as so amended, was adopted by the Lok Sabha and later by the Rajya Sabha<sup>132</sup>.

*Important Provisions of the Act*

Section 2 of the Act has amended article 81(1) (b) of the Constitution so as to raise the maximum number of seats in Lok Sabha for members representing the Union territories from twenty to twenty-five, thus enabling representation being given to Union territory of “Pondicherry”.

The First Schedule to the Constitution has been amended to include in the Schedule the territories of “Pondicherry” with effect from 16 August 1962. (Sections 3 and 7)

Powers were conferred on Parliament to create by law Legislatures and Councils of Ministers for the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Pondicherry by inserting a new article 239A in the Constitution. Any law passed for this purpose would not be deemed to be an amendment of the Constitution for the purpose of article 368. (Section 4)

In order to enable the President to make regulations for the peace, progress and good government for the Union territory of Pondicherry, clause (1) of article 240 of the Constitution has also been amended to include this territory, retrospectively from 16 August 1962. However, when any body is created under the new article 239A to function as a Legislature for Union territories of Goa, Daman and Diu or Pondicherry, the President shall cease to make regulations with effect from the date appointed for the first meeting of such Legislature. (Sections 5 and 7)

The Fourth Schedule to the Constitution has been amended so as to allocate one seat in Rajya Sabha to the Union territory of Pondicherry. (Section 6)

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<sup>131</sup> L.S. Deb., 4 September 1962, cc. 5931, 5959.

<sup>132</sup> Ibid., c. 5694; R.S. Deb., 7 September 1962, c. 5725.

**XV****THE CONSTITUTION (FIFTEENTH AMENDMENT)  
ACT, 1963<sup>133</sup>***Objects and Reasons of the Bill*

Several amendments to the Constitution had been under consideration for a long time. The Constitution (Fifth Amendment) Bill was introduced in Lok Sabha in November 1955 to give effect to some of them. For various reasons, the Bill could not be proceeded with, and it was allowed to lapse except the one relating to the amendment of article 3 of the Constitution. This article was amended separately by the Constitution (Fifth Amendment) Act, 1955. The present Bill contains some of the proposals included in the Constitution (Fifth Amendment) Bill and, in addition, a few more proposals for amendment of the Constitution. The proposals relating to articles 276, 297, 311 and 316 of the Constitution were contained in the Constitution (Fifth Amendment) Bill and they had been adopted with some minor modifications. The new proposals relate to articles 124, 128, 217, 220, 222, 224A, 226 and Entry 78 of the Union List.

The proposals included amendment of article 217 so as to raise the age of retirement of High Court Judges from sixty years to sixty-two years. Any question as to the correct age of a Judge of the Supreme Court or of a High Court was required to be decided by the President. It was proposed to make the position clear by making a specific provision in articles 124 and 217. It was considered desirable in the public interest that Judges should be transferred from one High Court to another. Such transfer was expected to impose additional financial

<sup>133</sup> Bill No. 111 of 1962; Introduced in Lok Sabha by the Minister of Law, Shri A.K. Sen on 23 November 1962; Referred to the Joint Committee; Report of the Committee presented: 8 March 1963; Debated Lok Sabha: 8 and 11 December 1962, 29 and 30 April and 1 May 1963; Rajya Sabha: 12 December 1962, 7 and 9 May 1963; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Kerala, Madras, Mysore, Punjab, Rajasthan and West Bengal; President's Assent: 5 October 1963; Date of Gazette Notification: 7 October 1963; Date of Commencement: 5 October 1963.

burden on the Judge so transferred. It was, therefore, proposed to pay him some compensatory allowance in addition to his salary. When a Judge was transferred from one High Court to another, he could not, in view of the provisions of article 220, resume practice in any of the High Courts in which he had held office as a Judge. The provisions of article 220, therefore, put a check on the proposal for the transfer of any Judge of a High Court. It was, therefore, proposed to amend article 220 so that the restriction regarding resumption of practice should apply only to the High Court from which the Judge retires, provided that he had served in that High Court for a period of at least five years immediately before retirement. Such a provision would facilitate the transfer of Judges. Under the existing article 226 of the Constitution, the only High Court which had jurisdiction with respect to the Central Government was the Punjab High Court. This involved considerable hardship to litigants from distant places. It was, therefore, proposed to amend article 226 so that when any relief is sought against any Government, authority or person for any action taken, the High Court within whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs. The other new proposals were of a minor nature.

#### *Legislative History*

The Constitution (Fifteenth Amendment) Bill, 1962 was introduced in the Lok Sabha on 23 November 1962<sup>134</sup>. The Bill sought to: (i) amend articles 124, 128, 217, 220, 222, 224, 226, 276, 297, 311 and 316 and the Seventh Schedule to the Constitution and (ii) insert a new article 224A in the Constitution. On a motion moved in the Lok Sabha on 8 December and adopted on 11 December 1962 and concurred in by the Rajya Sabha on 12 December 1962, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>135</sup>.

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<sup>134</sup> *L.S. Deb.*, 23 November 1962, c. 3188.

<sup>135</sup> *Ibid.*, 11 December 1962, cc. 5023-5024; *R.S. Deb.*, 12 December 1962, cc. 3998, 4026.

The Report of the Joint Committee on the Bill was presented to the Lok Sabha on 8 March 1963<sup>136</sup>. The Committee suggested: (a) important amendments in clauses 2, 4, 6, 9 and 12 and (b) omission of clauses 5 and 10 of the Bill.

The Bill, as reported by the Joint Committee, was considered by the Lok Sabha on 29, 30 April and 1 May and, as amended, passed on 1 May 1963<sup>137</sup>. The Bill as passed by the Lok Sabha was considered by the Rajya Sabha on 7 and 9 May and passed on 9 May 1963<sup>138</sup>.

Clause 1 of the Bill, as introduced in the Lok Sabha was adopted by both the Houses with a formal amendment made by the Joint Committee<sup>139</sup>. Clause 3 was adopted in the original form. Clauses 7, 8, 11, 13 and 14 were also adopted in the original form but were re-numbered by the Joint Committee, respectively, as clauses 6, 7, 9, 11 and 12<sup>140</sup>. The remaining clauses, which underwent certain changes, have been considered hereafter in the context of the relevant articles of the Constitution which were sought to be amended.

#### *Amendment of Article 124*

Clause 2 of the Bill, as introduced in the Lok Sabha, sought to provide that in article 124 of the Constitution after clause (2), the following clause shall be inserted namely:

(2A) If any question arises as to the age of a Judge of the Supreme Court, the question shall be decided by the President after making such inquiry as he may deem necessary and his decision shall be final.

The Joint Committee were of the view that the procedure for the determination of the age of a Judge of the Supreme Court should not be specified in the Constitution itself, but it should be left to be regulated by Parliament by law. The Committee amended clause 2 of the Bill accordingly. The clause, as amended by the Committee, was adopted

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<sup>136</sup> *L.S. Deb.*, 8 March 1963, c. 2971.

<sup>137</sup> *Ibid.*, 1 May 1963, c. 13301.

<sup>138</sup> *R.S. Deb.*, 9 May 1963, c. 2831.

<sup>139</sup> *Ibid.*, c. 2808; *L.S. Deb.*, 1 May 1963, c. 13298.

<sup>140</sup> *L.S. Deb.*, 1 May 1963, cc. 13267, 13278, 13283, 13291 and 13298; *R.S. Deb.*, 9 May 1963, cc. 2732, 2756, 2762, 2770, 2800 and 2804.

by the Lok Sabha and the Rajya Sabha on 1 and 9 May 1963, respectively<sup>141</sup>.

*Amendment of Article 217*

Clause 4(b) of the Bill, as introduced in the Lok Sabha, sought to provide that after clause (2) of article 217, the following clause shall be inserted and shall be deemed always to have been inserted, namely:

(3) if any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after making such inquiry as he may deem necessary and his decision shall be final.

The Joint Committee felt that it should be specifically laid down in the Constitution that the question of the age of a Judge of a High Court shall be decided by the President after consultation with the Chief Justice. The Committee amended clause 4(b) of the Bill accordingly. Clause 4, as amended by the Committee, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 9 May 1963, respectively<sup>142</sup>.

*Amendment of Article 220*

Clause 5 of the Bill, as introduced in the Lok Sabha, sought to provide for the insertion of the following proviso before the Explanation in article 220 of the Constitution, namely:

Provided that where a Judge is transferred from one High Court to another High Court and he serves as a Judge of that High Court for a period of not less than five years immediately before retirement, he shall be entitled, on retirement, to plead or act in the Supreme Court and all the High Courts except the High Court to which he was so transferred.

The Joint Committee were of the opinion that a permanent Judge of a High Court should not be allowed to resume practice after retirement in any of the High Courts in which he had held office as a Judge. The Committee, therefore, omitted clause 5 of the Bill.

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<sup>141</sup> *Ibid.*, c. 13266; *Ibid.*, c. 2728.

<sup>142</sup> *Ibid.*, c. 13270; *Ibid.*, c. 2745.

*Amendment of Article 222*

Clause 6 of the Bill, as introduced in the Lok Sabha, sought to provide that in article 222 of the Constitution, after clause (1), the following clause shall be inserted, namely:

(2) when a Judge is so transferred, he shall during the period he serves 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.

Clause 6 was re-numbered by the Joint Committee as clause 5. The Committee were of the view that the benefit of this clause should also be available to Judges who had been transferred before the commencement of the Constitution (Fifteenth Amendment) Act, but they should receive such compensatory allowance from the date of such commencement. The Committee amended the clause accordingly. The clause, as amended by the Committee, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 9 May 1963, respectively<sup>143</sup>.

*Amendment of Article 226*

Clause 9 of the Bill, as introduced in the Lok Sabha, was re-numbered by the Committee as clause 8. The original clause sought to amend article 226 so as to enable the High Court within whose jurisdiction a cause of action arose to issue directions, orders or writs to any Government or authority or person notwithstanding that the seat of such Government or authority or the residence of such person was outside the territorial jurisdiction of the High Court. The Committee felt that the High Court within whose jurisdiction the cause of action arose in part only should also be vested with such jurisdiction. The Committee, therefore, suitably amended the clause. Clause 8, as amended by the Committee, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 9 May 1963, respectively<sup>144</sup>.

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<sup>143</sup> *Ibid.*, c. 13274; *Ibid.*, c. 2740.

<sup>144</sup> *Ibid.*, c. 13287; *Ibid.*, c. 2766.

*Amendment of Article 276*

Clause 10 of the Bill, as introduced in the Lok Sabha, sought to provide that in article 276 of the Constitution, in clause (2), for the words “two hundred and fifty rupees”, wherever they occurred, the words “five hundred rupees” shall be substituted.

The Joint Committee were of the opinion that the ceiling of two hundred and fifty rupees per annum fixed by the existing clause (2) of article 276 of the Constitution as the maximum leviable by a State or a local authority by way of taxes on professions, trades, callings of employments in respect of any person was an appropriate limit and need not be raised. The Committee, therefore, omitted clause 10 of the Bill.

*Amendment of Article 311*

Clause 12 of the Bill, as introduced in the Lok Sabha, sought to provide that in article 311 dealing with dismissal, removal and reduction in rank of civilian Government employees, for clauses (2) and (3) the following clauses shall be substituted, namely:

(2) No such person as aforesaid shall be dismissed or removed 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:

Provided that this clause shall not apply:

- (a) where a person is dismissed or removed 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 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 shall be final.

Clause 12 was re-numbered by the Joint Committee as clause 10. The Committee considered that reduction in rank of a Government employee was a major punishment and the constitutional safeguards provided for in article 311 of the Constitution should continue to apply to Government employees in respect of the punishment of reduction in rank also. The Committee amended clause 10 (as so re-numbered) accordingly.

In clause 10, as amended by the Joint Committee, amendment, moved by the Minister of Law, Shri A.K. Sen in the Lok Sabha, was accepted<sup>145</sup>. Shri Sen's amendment was to the effect that in the new clause (2) of article 311 (proposed in clause 10 of the Bill), at the end (but before the proviso to the clause), the following words be added:

“and where it is proposed, after such inquiry to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed but only on the basis of the evidence adduced during such inquiry”.

Clause 10 (as amended by the Committee) was adopted by the Lok Sabha and the Rajya Sabha on 1 and 9 May 1963, respectively<sup>146</sup>.

#### *Important Provisions of the Act*

New clause (2A) inserted in article 124 provides that 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. (Section 2)

Article 128, as amended, provides for the appointment of a retired Judge of a High Court also to sit and act as a Judge of the Supreme Court. (Section 3)

Clause (1) of article 217 has been amended to provide for raising of the age of retirement of a High Court Judge from 60 to 62 years.

<sup>145</sup> L.S. Deb., 1 May 1963, cc. 13244, 13295.

<sup>146</sup> Ibid., c. 13297; R.S. Deb., 9 May 1963, c. 2796.

New clause (3), inserted in article 217 with retrospective effect, enables the President, after consultation with the Chief Justice of India, to determine any question as to the age of a Judge of a High Court. (Section 4)

A new clause (2) was inserted in article 222 to provide for payment of compensatory allowance to a Judge in addition to his salary on his transfer from one High Court to another. (Section 5)

A new article 224A was inserted to provide for the appointment of a retired High Court Judge to sit and act as a Judge of a High Court. (Section 7)

New clause (1A) inserted in article 226 provides that the High Court, within whose jurisdiction the cause of action arises, may also exercise jurisdiction to issue directions, orders or writs to any Government, authority or person notwithstanding that the seat of such Government or authority or the residence of such person is outside the territorial jurisdiction of the High Court. (Section 8)

In article 297 after the words “territorial waters”, the words “or the continental shelf” have been inserted. (Section 9)

For the existing clauses (2) and (3) of article 311, new clauses were substituted to provide *inter alia* that a civil servant shall not be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges and given a reasonable opportunity of being heard at the inquiry stage, and when after inquiry it is proposed to impose any such penalty on him, the reasonable opportunity afforded to him would be limited to making a representation on the penalty proposed only on the basis of the evidence adduced during such inquiry. This provision is subject to certain exceptions as provided for therein. (Section 10)

A new clause (1A) was inserted in article 316 to provide for appointment of an acting Chairman of a Public Service Commission when that office is vacant or when the permanent Chairman is on leave or is for any other reason unable to perform the duties of his office. (Section 11)

Entry 78 in List 1 of the Seventh Schedule has been amended retrospectively inserting the brackets and words “(including vacations)” after the word “organisation”. (Section 12)

## XVI

### THE CONSTITUTION (SIXTEENTH AMENDMENT) ACT, 1963<sup>147</sup>

#### *Objects and Reasons of the Bill*

The Committee on National Integration and Regionalism appointed by the National Integration Council recommended that article 19 of the Constitution be so amended that adequate powers become available for the preservation and maintenance of the integrity and sovereignty of the Union. The Committee were further of the view that every candidate for the membership of a State Legislature or Parliament and every aspirant to, and incumbent of, public office should pledge himself to uphold the Constitution and to preserve the integrity and sovereignty of the Union and that forms of oath in the Third Schedule to the Constitution should be suitably amended for the purpose. It was proposed to give effect to these recommendations by amending clauses (2), (3) and (4) of article 19 for enabling the State to make any law imposing reasonable restrictions on the exercise of the rights conferred by sub-clauses (a), (b) and (c) of clause (1) of that article in the interests of the sovereignty and integrity of India. It was also proposed to amend articles 84 and 173 and forms of oath in the Third Schedule to the Constitution so as to provide that every candidate for the membership of Parliament or State Legislature, Union and State Ministers, members of Parliament and State Legislatures, Judges of the Supreme Court and High Courts and the Comptroller and Auditor-General of India should take an oath to uphold the sovereignty and integrity of India.

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<sup>147</sup> Bill No. 1 of 1963; Introduced in Lok Sabha by the Minister of Law, Shri A.K. Sen on 21 January 1963, Referred to Joint Committee; Report of the Committee presented: 18 March 1963; Debated, Lok Sabha: 22 January and 2 May 1963; Rajya Sabha: 25 January and 9 May 1963; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Kerala, Madras, Mysore, Punjab, Rajasthan and West Bengal; President's Assent: 5 October 1963; Date of Gazette Notification: 7 October 1963; Date of Commencement: 5 October 1963.

The Bill sought to achieve these objects.

#### *Legislative History*

The Constitution (Sixteenth Amendment) Bill, 1963 was introduced in the Lok Sabha on 21 January 1963<sup>148</sup>. The Bill sought to amend articles 19, 84 and 173 and the Third Schedule to the Constitution. On a motion moved, in the Lok Sabha on 22 January adopted on the same day and concurred to by the Rajya Sabha on 25 January 1963, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>149</sup>.

The Report of the Joint Committee on the Bill was presented to the Lok Sabha on 18 March 1963<sup>150</sup>. The Committee did not recommend any amendment in the Bill except a formal change in the Enacting Formula.

The Bill, as reported by the Joint Committee, was considered and passed by the Lok Sabha on 2 May 1963 and by the Rajya Sabha on 9 May 1963<sup>151</sup>.

#### *Important Provisions of the Act*

Section 2 has amended clauses (2), (3) and (4) of article 19 so as to enable the State to make any law imposing reasonable restrictions on the exercise of the rights conferred by sub-clauses (a), (b) and (c) of clause (1) of the aforesaid article in the interests of the sovereignty and integrity of India.

Amendments in articles 84, 173 and the Third Schedule to the Constitution of India provide that every candidate for the membership of Parliament or State Legislatures, Union and State Ministers, Judges of the Supreme Court and High Courts and the Comptroller and Auditor-General of India shall take an oath to uphold the sovereignty and integrity of India. The forms of oath in the Third Schedule have been amended accordingly. (Sections 3 to 5)

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<sup>148</sup> *L.S. Deb.*, 21 January 1963, c. 5495.

<sup>149</sup> *Ibid.*, 22 January 1963, cc. 5759, 5840 and 5841; *R.S. Deb.*, 25 January 1963, c. 4952.

<sup>150</sup> *L.S. Deb.*, 18 March 1963, c. 4438.

<sup>151</sup> *Ibid.*, 2 May 1963, c. 13503; *R.S. Deb.*, 9 May 1963, c. 2896.

## XVII

### THE CONSTITUTION (SEVENTEENTH AMENDMENT) ACT, 1964<sup>152</sup>

#### *Objects and Reasons of the Bill*

Under article 31A of the Constitution, a law in respect of the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights shall not be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31. The protection of this article was available only in respect of such tenures as were estates on 26 January 1950, when the Constitution came into force. The expression “estate” had been defined differently in different States and, as a result of the transfer of land from one State to another on account of the reorganisation of States, the expression came to be defined differently in different parts of the same State. Moreover, many of the land reform enactments were related to lands which were not included in an estate. Several State Acts relating to land reform were struck down on the ground that the provisions of those Acts were violative of articles 14, 19 and 31 of the Constitution and that the protection of article 31A was not available to them. It was, therefore, proposed to amend the definition of “estate” in article 31A of the Constitution by including therein lands held under ryotwari settlement and also other lands in respect of which provisions were normally made in land reform enactments. It was further proposed to provide that where any law makes a provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating

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<sup>152</sup> Bill No. 46 of 1964; Introduced as the Constitution (Nineteenth Amendment) Bill in Lok Sabha by the Minister of Law, Shri A.K. Sen on 27 May 1964; Debated, Lok Sabha: 1 and 2 June 1964; Rajya Sabha: 4 and 5 June 1964; President's Assent: 20 June 1964; Date of Gazette Notification: 20 June 1964; Date of Commencement: 20 June 1964.

to the acquisition of such land, building or structure provides for payment of compensation at a rate not less than the market value thereof.

It was also proposed to amend the Ninth Schedule by including therein certain State enactments relating to land reform in order to remove any uncertainty or doubt that might arise in regard to their validity.

The Bill sought to achieve these objects.

#### *Legislative History*

The Constitution (Seventeenth Amendment) Act, 1964, when introduced in the Lok Sabha on 27 May 1964, was titled as the Constitution (Nineteenth Amendment) Bill 1964<sup>153</sup>. The Bill sought to amend article 31A and the Ninth Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 1 and 2 June and, as amended, passed by the House on 2 June 1964. The Bill as passed by the Lok Sabha, was considered by the Rajya Sabha on 4 and 5 June and passed on 5 June 1964<sup>154</sup>.

By a formal amendment to clause 1 of the Bill, the short title was changed to “The Constitution (Seventeenth Amendment) Act”<sup>155</sup>.

Clause 2 of the Bill, which sought to amend article 31A, was adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 2 and 5 June 1964, respectively<sup>156</sup>.

#### *Amendment of Ninth Schedule*

Clause 3 of the Bill, as introduced in the Lok Sabha, sought to add 44 new entries—Entries No. 21 to 64—and an Explanation (after

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<sup>153</sup> *L.S. Deb.*, 27 May 1964, c. 107. See also the Constitution (Seventeenth Amendment) Bill, 1963: for Legislative History in Chapter III and for Text in Annexure (B).

<sup>154</sup> *Ibid.*, 2 June 1964, c. 719; *R.S. Deb.*, 5 June 1964, c. 1050.

<sup>155</sup> *Ibid.*, c. 681; *Ibid.*, c. 1039.

<sup>156</sup> *Ibid.*, c. 661; *Ibid.*, c. 1031.

Entry 64) in the Ninth Schedule to the Constitution. The proposed new Entry 33 read as under:

The Gujarat Surviving Alienations Abolition Act, 1963 (Gujarat Act XXXIII of 1963).

In the aforesaid Entry 33, an amendment, moved by Shri A.P. Jain in the Lok Sabha, was accepted<sup>157</sup>. The amendment was to the effect that at the end of Entry 33 the words, brackets and figures “except in so far as this Act relates to an alienation referred to in sub-clause (d) of clause (3) of section 2 thereof” be added.

Clause 3 of the Bill was adopted, in this amended form, by the Lok Sabha and the Rajya Sabha on 2 and 5 June 1964, respectively<sup>158</sup>.

#### *Important Provisions of the Act*

The Act has amended the definition of “estate” given in sub-clause (a) of clause (2) of article 31A of the Constitution so as to include therein lands held under ryotwari settlement in addition to other lands in respect of which provisions are normally made in land reform enactments. (Section 2)

The Act added another proviso to clause 1 of article 31A so as to provide 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 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. (Section 2)

The Act added to the Ninth Schedule to the Constitution, 44 additional State enactments relating to land reform with a view to provide that the said enactments shall not be deemed to be void on the ground that the same are inconsistent with any provisions of Part III of the Constitution relating to Fundamental Rights. (Section 3)

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<sup>157</sup> L.S. Deb., 1 and 2 June 1964, cc. 472, 662.

<sup>158</sup> Ibid., 2 June 1964, c. 682; R.S. Deb., 5 June 1964, c. 1035.

## XVIII

### THE CONSTITUTION (EIGHTEENTH AMENDMENT) ACT, 1966<sup>159</sup>

#### *Objects and Reasons of the Bill*

Article 3 of the Constitution has provided for the formation of new States and alteration of areas, boundaries, or names of existing States. Before the Constitution (Seventh Amendment) Act, 1956 was enacted, the expression “States” occurring in that article meant Part A States, Part B States and also Part C States. By the Seventh Amendment of the Constitution in 1956, the concept of “Union territories” was introduced in our Constitution but article 3 was not amended to include *in terms* “Union territories”. It was considered proper to amend this article so as to make it clear that “State” in clauses (a) to (e) of that article (but not in the proviso) include “Union territories”. It was also considered proper to make it clear that power under clause (a) of article 3 includes power to form a new State or Union territory by uniting a part of a State or Union territory to another State or Union territory.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Eighteenth Amendment) Act, 1966, when introduced in the Lok Sabha on 25 July 1966, was titled as the Constitution (Twentieth Amendment) Bill, 1966<sup>160</sup>. The Bill sought to amend article 3 of the Constitution.

<sup>159</sup> Bill No. 39 of 1966; Introduced as the Constitution (Twentieth Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Law, Shri C.R. Pattabhi Raman on 25 July 1966; Debated, Lok Sabha: 10 August 1966; Rajya Sabha: 24 August 1966; President’s Assent: 27 August 1966; Date of Gazette Notification: 29 August 1966; Date of Commencement: 27 August 1966.

<sup>160</sup> L.S. Deb., 25 June 1966, c. 218. See also the Constitution (Nineteenth Amendment) Bill, 1966: for Legislative History in Chapter III and for Text in Annexure (B).

With only a formal amendment to clause 1, changing the short title to “Constitution (Eighteenth Amendment) Act”, the Bill, as introduced, was considered and passed by the Lok Sabha on 10 August 1966 and by the Rajya Sabha on 24 August 1966<sup>161</sup>.

*Important Provisions of the Act*

The Act has amended article 3 of the Constitution by adding the Explanation at the end that in clauses (a) to (e) “State” includes a Union territory, but in the proviso, “State” does not include a Union territory.

The Act adds another Explanation that 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. (Section 2)

## XIX

### THE CONSTITUTION (NINETEENTH AMENDMENT) ACT, 1966<sup>162</sup>

*Objects and Reasons of the Bill*

One of the important recommendations made by the Election Commission in its Report on the Third General Elections in India in 1962, and accepted by the Government was related to the abolition of election tribunals and trial of election petitions by High Courts.

If the proposal for a legislation to amend the Representation of the People Act, 1951, containing, *inter alia*, provisions for the trial of election petitions by the High Courts instead of the election tribunals, was to be accepted by Parliament, it was necessary to make a minor

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<sup>161</sup> *Ibid.*, 10 August 1966, cc. 3998-4001; *R.S. Deb.*, 24 August 1966. cc. 3926-3933.

<sup>162</sup> Bill No. 57 of 1966; Introduced as the Constitution (Twenty-first Amendment) Bill in Lok Sabha by the Minister of Law, Shri G.S. Pathak on 29 August 1966; Debated, Lok Sabha: 8, 9, 10 and 22 November 1966; Rajya Sabha: 30 November 1966; President’s Assent: 11 December 1966; Date of Gazette Notification: 11 December 1966; Date of Commencement: 11 December 1966.

amendment in clause (1) of article 324 of the Constitution for the purpose of deleting therefrom the words, “including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States”.

The Bill sought to give effect to the said object.

#### *Legislative History*

The Constitution (Nineteenth Amendment) Act, 1966, when introduced in the Lok Sabha on 29 August 1966, was titled as the Constitution (Twenty-First) Amendment, Bill, 1966<sup>163</sup>. The Bill sought to amend article 324 of the Constitution.

The Bill was considered by the Lok Sabha on 8, 9, 10 and 22 November and passed on 22 November 1966 with only a formal amendment in clause 1, changing the short title to “Constitution (Nineteenth Amendment) Act”<sup>164</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 30 November 1966<sup>165</sup>.

Clause 2 was adopted in the original form by the Lok Sabha and Rajya Sabha on 22 and 30 November 1966, respectively<sup>166</sup>.

#### *Important Provisions of the Act*

Article 324 of the Constitution provides for vesting of the power of superintendence, direction and control of elections with the Election Commission. Clause (1) of this article has been amended. Accordingly, the provision relating to the power of “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” has now been omitted. (Section 2)

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<sup>163</sup> L.S. Deb., 29 August 1966, c. 7727.

<sup>164</sup> Ibid., 22 November 1966, cc. 4708-4711.

<sup>165</sup> R.S. Deb., 30 November 1966, cc. 3349-3358.

<sup>166</sup> L.S. Deb., 22 November 1966, cc. 4707-4708; R.S. Deb., 30 November 1966, cc. 3345-3349.

**XX****THE CONSTITUTION (TWENTIETH AMENDMENT)  
ACT, 1966<sup>167</sup>***Objects and Reasons of the Bill*

Appointments of district judges in Uttar Pradesh and a few other States were rendered invalid and illegal by a judgment of the Supreme Court on the ground that such appointments were not made in accordance with the provisions of article 233 of the Constitution. In another judgment, the Supreme Court held that the power of posting of a district judge under article 233 does not include the power of transfer of such judge from one station to another and that the power of transfer of a district judge is vested in the High Court under article 235 of the Constitution. As a result of these judgments, a serious situation arose because doubts were thrown on the validity of the judgments, decrees, orders and sentences passed or made by these district judges and a number of writ petitions and other cases were filed challenging their validity. The functioning of the district courts in Uttar Pradesh practically came to a standstill. It was, therefore, necessary to validate the judgments, decrees, orders and sentences passed or made heretofore by all such district judges in those States and also to validate the appointment, posting, promotion and transfer of such district judges barring those few who were not eligible for appointment under article 233.

The Bill sought to give effect to the said proposals.

*Legislative History*

The Constitution (Twentieth Amendment) Act, 1966, when introduced in the Lok Sabha on 25 November 1966, was titled as the Constitution (Twenty-third Amendment) Bill, 1966<sup>168</sup>. The Bill sought to insert a new article 233A in the Constitution.

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<sup>167</sup> Bill No. 89 of 1966; Introduced as the Constitution (Twenty-third Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri Y.B. Chavan on 25 November 1966; Debated, Lok Sabha: 3 December 1966; Rajya Sabha: 9 December 1966; President's Assent: 22 December 1966; Date of Gazette Notification: 23 December 1966; Date of Commencement: 22 December 1966.

<sup>168</sup> L.S. Deb., 25 November 1966, cc. 5666, 5681.

The Bill was considered and passed by the Lok Sabha on 3 December 1966 with only formal amendments replacing the word “Twenty third” by the word “Twentieth” in the short title as well as in the proposed new article 233A<sup>169</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 9 December 1966<sup>170</sup>.

*Important Provisions of the Act*

The Act inserts a new article 233A *inter alia* validating the appointments of, and judgements etc., delivered before the commencement of the present Act, by the district judges who were 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 of the Constitution. (Section 2)

## XXI

### THE CONSTITUTION (TWENTY-FIRST AMENDMENT) ACT, 1967<sup>171</sup>

*Objects and Reasons of the Bill*

There were persistent demands from the Sindhi-speaking people for the inclusion of the Sindhi language in the Eighth Schedule to the Constitution. Although Sindhi was not a regional language in a well-defined area, it used to be the language of a Province of the undivided India and, but for partition, would have continued to be so. The Commissioner for Linguistic Minorities also recommended the inclusion of Sindhi in the Eighth Schedule to the Constitution. On 4 November 1966, it was announced that Government had decided to include the Sindhi language in the Eighth Schedule to the Constitution. The Bill sought to give effect to this decision.

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<sup>169</sup> *Ibid.*, 3 December 1966, cc. 7318-7335.

<sup>170</sup> *R.S. Deb.*, 9 December 1966, cc. 5290-5296.

<sup>171</sup> Bill No. 1 of 1967; Introduced in Rajya Sabha by the Minister of Home Affairs, Shri Y.B. Chavan on 20 March 1967; Debated, Rajya Sabha: 4 April 1967; Lok Sabha: 7 April 1967; President's Assent: 10 April 1967; Date of Gazette Notification: 10 April 1967; Date of Commencement: 10 April 1967.

*Legislative History*

The Constitution (Twenty-first Amendment) Bill, 1967 was introduced in the Rajya Sabha on 20 March 1967<sup>172</sup>. The Bill sought to amend the Eighth Schedule to the Constitution.

The Bill was considered by the Rajya Sabha on 4 April 1967 and passed in the original form on the same day<sup>173</sup>. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 7 April 1967<sup>174</sup>.

*Important Provisions of the Act*

The Eighth Schedule to the Constitution has been amended so as to include ‘Sindhi’ as one of the languages. (Section 2)

**XXII****THE CONSTITUTION (TWENTY-SECOND AMENDMENT)  
ACT, 1969<sup>175</sup>***Objects and Reasons of the Bill*

On 11 September 1968, the Government of India announced the broad details of the scheme for constituting within the State of Assam an autonomous State comprising certain areas specified in Part A of the Table appended to Paragraph 20 of the Sixth Schedule to the Constitution. Clause 2 of the Bill sought to insert a new article 244A in the Constitution to confer the necessary legislative power on Parliament to enact a law for constituting the autonomous State and also to provide the autonomous State with a Legislature and a Council of Ministers with such powers and functions as might be defined by that law.

<sup>172</sup> R.S. Deb., 20 March 1967, c. 177.

<sup>173</sup> Ibid., 4 April 1967, c. 2153.

<sup>174</sup> L.S. Deb., 7 April 1967, c. 3616.

<sup>175</sup> Bill No. 34 of 1969; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Y.B. Chavan on 10 April 1969; Debated, Lok Sabha: 15 April 1969; Rajya Sabha: 30 April 1969; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Gujarat, Haryana, Kerala, Madhya Pradesh, Maharashtra, Mysore, Nagaland, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal; President’s Assent: 25 September 1969; Date of Gazette Notification: 26 September 1969; Date of Commencement: 25 September 1969.

Clause 3 of the Bill proposed a consequential amendment to article 275 in regard to certain special grants payable to the State of Assam in respect of the areas which might form part of the autonomous State.

Clause 4 of the Bill proposed for the constitution of a committee of the Assam Legislative Assembly consisting of members of that Assembly from the tribal areas aforesaid and a few other members of that Assembly, as envisaged in the scheme.

#### *Legislative History*

The Constitution (Twenty-second Amendment) Bill, 1969 was introduced in the Lok Sabha on 10 April 1969<sup>176</sup>. The Bill sought to: (i) amend article 275 and (ii) insert new articles 244A and 371B in the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 15 April 1969 and the Rajya Sabha on 30 April 1969<sup>177</sup>.

#### *Important Provisions of the Act*

A new article 244A has been inserted in the Constitution to confer the necessary powers on Parliament to enact a law for constituting an autonomous State within the State of Assam and also to provide the autonomous State with Legislature or a Council of Ministers or both with such powers and functions as may be defined by that law. (Section 2)

Section 3 makes a consequential amendment in article 275 in regard to sums and grants payable to the autonomous State on and from its formation under article 244A.

Section 4 inserts new article 371B which provides for constitution and functions of a committee of the Legislative Assembly of the State of Assam consisting of members of that Assembly elected from the tribal areas specified in Part A 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.

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<sup>176</sup> L.S. Deb., 10 April 1969, c. 180. See also the Constitution (Twenty-second Amendment) Bill, 1968: for Legislative History in Chapter III and for Text in Annexure (B).

<sup>177</sup> Ibid., 15 April 1969, p. 277; R.S. Deb., 30 April 1969, c. 780.

## XXIII

### **THE CONSTITUTION (TWENTY-THIRD AMENDMENT) ACT, 1969<sup>178</sup>**

#### *Objects and Reasons of the Bill*

Article 334 of the Constitution provided that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of twenty years from the commencement of the Constitution. Although the Scheduled Castes and Scheduled Tribes made considerable progress in the last twenty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members had not ceased to exist. It was, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of Anglo-Indians by nomination for a further period of ten years.

More than ninety per cent of the population of the State of Nagaland, which came into being in 1963, was tribal. It was anomalous to make provision for reservation for Scheduled Castes and Scheduled Tribes in Legislatures in the States where they were in a majority. It was, therefore, proposed, as desired by the Government of Nagaland, not to make any reservation for the Scheduled Tribes in Nagaland either in the House of the People or in the State Legislative Assembly. Articles 330 and 332 of the Constitution were proposed to be amended for this purpose.

Under article 333 of the Constitution, the number of Anglo-Indians, who might be nominated to the State Legislative Assemblies, was left

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<sup>178</sup> Bill No. 78 of 1969; Introduced in Lok Sabha by the Minister of Law, Shri Govinda Menon on 21 August 1969; Debated, Lok Sabha: 8 and 9 December 1969; Rajya Sabha: 16 and 17 December 1969; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Kerala, Madhya Pradesh, Maharashtra, Mysore, Nagaland, Punjab, Rajasthan, Tamil Nadu and West Bengal; President's Assent: 23 January 1970; Date of Gazette Notification: 23 January 1970; Date of Commencement: 23 January 1970.

to the discretion of the Governor. It was now proposed to amend that article so as to provide that not more than one Anglo-Indian should be nominated by the Governor to any State Legislative Assembly. This amendment was proposed to be done without affecting the representation of the Anglo-Indian community in the existing Legislative Assemblies until their dissolution.

#### *Legislative History*

The Constitution (Twenty-third Amendment) Bill, 1969 was introduced in the Lok Sabha on 21 August 1969<sup>179</sup>. The Bill sought to amend articles 330, 332, 333 and 334 of the Constitution.

The Bill was considered by the Lok Sabha on 8 and 9 December and passed in the original form on 9 December 1969<sup>180</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 16 and 17 December and passed on 17 December 1969<sup>181</sup>.

#### *Important Provisions of the Act*

Articles 330 and 332 of the Constitution have been amended so as to provide for the discontinuance of reservation for the Scheduled Tribes in Nagaland, both in the Lok Sabha and the State Legislative Assembly. (Sections 2 and 3)

Section 4 has amended article 333 of the Constitution to provide for the nomination of one member of the Anglo-Indian community by the Governor of a State to the Legislative Assembly of the State, if he is of the opinion that this community is not represented in the Assembly.

Section 5 has amended article 334 of the Constitution to provide for the continuance of reservation for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination, in the Lok Sabha and the Legislative Assemblies of the States for a further period of ten years.

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<sup>179</sup> L.S. Deb., 21 August 1969, c. 270.

<sup>180</sup> Ibid., 9 December 1979, c. 416.

<sup>181</sup> R.S. Deb., 17 December 1969, c. 4648.

## XXIV

### **THE CONSTITUTION (TWENTY-FOURTH AMENDMENT) ACT, 1971<sup>182</sup>**

#### *Objects and Reasons of the Bill*

The Supreme Court in the well-known *Golak Nath's case* [1967, 2 S.C.R. 762] reversed, by a narrow majority, its own earlier decisions upholding the power of Parliament to amend all parts of the Constitution including Part III relating to Fundamental Rights. The result of the judgment was that Parliament was considered to have no power to take away or curtail any of the Fundamental Rights guaranteed by Part III of the Constitution even if it was necessary to do so for giving effect to the Directive Principles of State Policy and for the attainment of the objectives set out in the Preamble to the Constitution. It was, therefore, considered necessary to provide expressly that Parliament has power to amend any provision of the Constitution so as to include the provisions of Part III within the scope of the amending power.

The Bill sought to amend article 368 suitably for the purpose of making it clear that article 368 provides for amendment of the Constitution as well as procedure therefor. The Bill further provided that when a Constitution Amendment Bill passed by both Houses of Parliament is presented to the President for his assent, he should give his assent thereto. The Bill also sought to amend article 13 of the Constitution to make it inapplicable to any amendment of the Constitution under article 368.

#### *Legislative History*

The Constitution (Twenty-fourth Amendment) Bill, 1971 was introduced in the Lok Sabha on 28 July 1971<sup>183</sup>. The Bill sought to amend articles 13 and 368 of the Constitution.

<sup>182</sup> Bill No. 105 of 1971; Introduced in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 28 July 1971; Debated, Lok Sabha: 3 and 4 August 1971; Rajya Sabha: 10 and 11 August 1971; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Haryana, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Tamil Nadu and Uttar Pradesh; President's Assent: 5 November 1971; Date of Gazette Notification: 5 November 1971; Date of Commencement: 5 November 1971.

<sup>183</sup> L.S. Deb., 28 July 1971, c. 292.

The Bill was considered by the Lok Sabha on 3 and 4 August and passed, in the original form, on 4 August 1971<sup>184</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 10 and 11 August and passed by that House on 11 August 1971<sup>185</sup>.

*Important Provisions of the Act*

A new clause (4) has been inserted in article 13 of the Constitution to provide that the provisions of article 13 shall not be applicable to any amendment made under article 368. (Section 2)

The Act has amended article 368 to provide expressly that Parliament has power to amend any provision of the Constitution. The amendment further provides that when a Constitution Amendment Bill is presented to the President for his assent, it would be obligatory upon him to give his assent thereto. (Section 3)

## XXV

### **THE CONSTITUTION (TWENTY-FIFTH AMENDMENT) ACT, 1971<sup>186</sup>**

*Objects and Reasons of the Bill*

Article 31 of the Constitution specifically provided that no law providing for the compulsory acquisition or requisitioning of property which either fixes the amount of compensation or specifies the principles on which and the manner in which the compensation is to be determined and given, shall be called in question in any Court on the ground that the compensation provided by that law is not adequate. In the *Bank Nationalization case* (1970, 3 S.C.R. 530), the Supreme Court

<sup>184</sup> *Ibid.*, 4 August 1971, c. 426.

<sup>185</sup> *R.S. Deb.*, 11 August 1971, c. 316.

<sup>186</sup> Bill No. 106 of 1971; Introduced in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 28 July 1971; Debated, Lok Sabha: 30 November and 1 December 1971; Rajya Sabha: 7 and 8 December 1971; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mysore, Nagaland, Orissa, Punjab, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Assent: 20 April 1972; Date of Gazette Notification: 20 April 1972; Date of Commencement: 20 April 1972.

held that the Constitution guarantees right to compensation, that is, the equivalent in money of the property compulsorily acquired. Thus in effect the adequacy of compensation and the relevancy of the principles laid down by the Legislature for determining the amount of compensation virtually became justiciable inasmuch as the Court could go into the question whether the amount paid to the owner of the property was what might be regarded reasonably as compensation for loss of property. In the same case, the Court also held that a law which seeks to acquire or requisition property for a public purpose should also satisfy the requirements of article 19(1)(f).

The Bill sought to surmount the difficulties placed in the way of giving effect to the Directive Principles of State Policy by the aforesaid interpretation. The word “compensation” was sought to be omitted from article 31(2) and replaced by the word “amount”. It was also clarified that the said amount might be given otherwise than in cash. The Bill also proposed to provide that article 19(1)(f) shall not apply to any law relating to the acquisition or requisitioning of property for a public purpose.

The Bill further sought to introduce a new article 31C providing that if any law is passed to give effect to the Directive Principles contained in clauses (b) and (c) of article 39 and contains a declaration to that effect, such law shall not be deemed to be void on the ground that it takes away or abridges any of the rights contained in articles 14, 19 or 31 and shall not be questioned on the ground that it does not give effect to those principles. For this provision to apply in the case of laws made by State Legislatures, it was necessary that the relevant Bill should be reserved for the consideration of the President and receive his assent.

#### *Legislative History*

The Constitution (Twenty-fifth Amendment) Bill, 1971 was introduced in the Lok Sabha on 28 July 1971<sup>187</sup>. The Bill sought to: (i) amend article 31 and (ii) insert a new article 31C in the Constitution.

The Bill was considered by the Lok Sabha on 30 November and 1 December and, as amended, passed on 1 December 1971<sup>188</sup>. The

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<sup>187</sup> L.S. Deb., 28 July 1971, c. 308.

<sup>188</sup> Ibid., 1 December 1971, c. 524.

Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 7 and 8 December and passed on 8 December 1971<sup>189</sup>.

Clauses 1 and 3 of the Bill were adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 1 and 8 December 1971, respectively<sup>190</sup>.

#### *Amendment of Article 31*

Clause 2 of the Bill sought to amend article 31(2) of the Constitution to make it clear that no law providing for the compulsory acquisition or requisitioning of property could be called in question in any Court on the ground that the amount fixed or determined under such law to be given to the owner of the property is not adequate. During the consideration of the clause by the Lok Sabha, the Minister of Law, Shri H.R. Gokhale, moved an amendment seeking addition of the following proviso at the end of the proposed clause (2) of article 31:

Provided that 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) of article 30, 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.

The amendment was accepted by the House. The clause, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 8 December 1971, respectively<sup>191</sup>.

#### *Important Provisions of the Act*

The Act has amended article 31 in order to provide that the word “compensation” in article 31(2) be replaced by the word “amount” so that no law providing for the compulsory acquisition or requisitioning of property could be called in question in any Court on the ground that the amount so fixed or determined is not adequate. It has also been

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<sup>189</sup> R.S. Deb., 8 December 1971, c. 192.

<sup>190</sup> L.S. Deb., 1 December 1971, cc. 505-506; R.S. Deb., 8 December 1971, cc. 173-177.

<sup>191</sup> Ibid., cc. 381, 429-30 and 443; Ibid., cc. 117.

clarified that the said amount may be given otherwise than in cash. However, in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, the State is enjoined to ensure that the amount fixed by or determined under such law is such as would not restrict the minority's right under article 30(1). A new clause (2B) inserted in article 31 provided that article 19(1)(f), which guarantees the right to hold and dispose of property, shall not apply to any law relating to the acquisition or requisitioning of property for a public purpose. (Section 2)

A newly inserted article 31C provided that a law giving effect to the Directive Principles of State Policy specified in article 39(b) and (c) shall not be void on the ground of contravention of articles 14, 19 or 31 and that a law containing a declaration that it is for giving effect to these Directive Principles will not be open to judicial scrutiny on the ground that it does not give effect to these Directive Principles. For this provision to apply in the case of State laws, however, it is necessary that the relevant Bill should have been reserved for the consideration of the President and received his assent. (Section 3)

## XXVI

### **THE CONSTITUTION (TWENTY-SIXTH AMENDMENT) ACT, 1971<sup>192</sup>**

#### *Objects and Reasons of the Bill*

The concept of rulership, with privy purses and privileges un-related to any current functions and social purposes, was incompatible with an egalitarian social order. The Government, therefore, decided to terminate the privy purses and privileges of the Rulers of former Indian States. It was necessary for this purpose, apart from amending the relevant provisions of the Constitution, to insert a new article therein so as to terminate expressly the recognition already granted to such Rulers and to abolish privy purses and extinguish all rights, liabilities and obligations in respect of privy purses. Hence this Bill.

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<sup>192</sup> Bill No. 112 of 1971; Introduced in Lok Sabha by the Prime Minister Shrimati Indira Gandhi on 9 August 1971; Debated, Lok Sabha: 1 and 2 December 1971; Rajya Sabha: 7, 8 and 9 December 1971; President's Assent: 28 December 1971; Date of Gazette Notification: 29 December 1971; Date of Commencement: 28 December 1971.

*Legislative History*

The Constitution (Twenty-sixth Amendment) Bill, 1971 was introduced in the Lok Sabha on 9 August 1971<sup>193</sup>. The Bill sought to: (i) omit articles 291 and 362; (ii) insert a new article 363A and (iii) amend article 366 of the Constitution.

The Bill was considered by the Lok Sabha on 1 and 2 December 1971 and passed in the original form on 2 December 1971<sup>194</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 7, 8 and 9 December and passed on 9 December 1971<sup>195</sup>.

*Important Provisions of the Act*

Section 2 of the Act omitted articles 291 and 362 of the Constitution dealing respectively with privy purse sums of Rulers and rights and privileges of Rulers of Indian States.

Section 3 inserted a new article 363A after article 363 of the Constitution. The new article 363A provided that notwithstanding anything in the Constitution or in any law for the time being in force, the Prince, Chief or other person who, at any time before the commencement of 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. Further, on and from the commencement of this Act, privy purse is abolished and rights, liabilities and obligations in respect of privy purses are extinguished and, accordingly, the Ruler, or, as the case may be, the successor of such Ruler or any other person shall not be paid any sum as privy purse.

Clause 22 of the article 366 of the Constitution which provides for the definition of “Ruler” has been substituted by a new definition. Accordingly, “Ruler” now means the Prince, Chief or other person who, at any time before the commencement of the Constitution

<sup>193</sup> L.S. Deb., 9 August 1971, c. 262. See also the Constitution (Twenty-fourth Amendment) Bill, 1970: for Legislative History in Chapter III and for Text in Annexure (B).

<sup>194</sup> Ibid, 2 December 1971, c. 262.

<sup>195</sup> R.S. Deb., 9 December 1971 c. 152.

(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 recognized by the President as the successor of such Ruler. (Section 4)

## XXVII

### **THE CONSTITUTION (TWENTY-SEVENTH AMENDMENT) ACT, 1971<sup>196</sup>**

#### *Objects and Reasons of the Bill*

As a part of the scheme of reorganisation of the north-eastern areas, it was proposed that the Union territory of Mizoram contemplated under the scheme should have a Legislature and Council of Ministers. It was proposed to achieve this object by including the Union territory of Mizoram in article 239A of the Constitution.

The Study Team appointed by the Administrative Reforms Commission on the administration of Union territories and NEFA had recommended that the Administrator of a Union territory with Legislature might have the power to promulgate Ordinances when the Legislature was not in session. It was proposed to accept this recommendation and include a suitable provision in the Constitution conferring on such an Administrator the power to promulgate Ordinances.

Under Paragraph 18(2) of the Sixth Schedule to the Constitution read with article 240 of the Constitution, the President is empowered to make regulations for the North-East Frontier Agency. It was proposed to continue these powers even after the Agency became the Union territory of Arunachal Pradesh under the reorganisation scheme. It was also proposed to have similar powers with respect to the Union territory of Mizoram.

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<sup>196</sup> Bill No. 173 of 1971; Introduced in Lok Sabha by the Minister of State in the Ministry of Home Affairs, Shri K.C. Pant on 21 December 1971; Debated, Lok Sabha: 21 December 1971; Rajya Sabha: 23 December 1971; President's Assent: 30 December 1971; Date of Gazette Notification: 31 December 1971; Date of Commencement: Sections 1 and 3 came into force on 30 December 1971; and Sections 2, 4 and 5 came into force on 15 February 1972.

When the Legislature of a State is dissolved or its functioning is suspended by a proclamation under article 356 of the Constitution, the Parliament is empowered to confer legislative powers on the President in respect of that State by passing a law under article 357(1). No such provision existed in the case of Union territories with Legislatures, with the result that whenever the Legislature of any Union territory was dissolved or its functioning was suspended by an order of the President, all legislation relating to that Union territory had to be passed by the Parliament. It was proposed that in such circumstances, the regulation-making power under article 240 should be available to the President.

Hill Areas of Manipur are predominantly inhabited by members of Scheduled Tribes. To safeguard their interests, special provisions were made in section 52 of the Government of Union territories Act, 1963 for a committee of the Legislative Assembly of the Union territory of Manipur consisting of members from the Hill Area. With the Union territory of Manipur becoming a State under the reorganisation scheme, the said section 52 will cease to be operative. It was, therefore, proposed, as a part of the scheme of safeguards for the people of the Hill Areas, to continue this arrangement even after Manipur became a State. So, a specific provision was proposed to be made in the Constitution for the formation of such a committee.

This Bill sought to give effect to the above proposals.

#### *Legislative History*

The Constitution (Twenty-seventh Amendment) Bill, 1971 was introduced in the Lok Sabha on 21 December 1971<sup>197</sup>. The Bill sought to: (i) amend articles 239A and 240 and (ii) insert new articles 239B and 371C in the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 21 December 1971 and by the Rajya Sabha on 23 December 1971<sup>198</sup>.

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<sup>197</sup> *L.S. Deb.*, 21 December 1971, c. 8.

<sup>198</sup> *Ibid.*, c. 122; *R.S. Deb.*, 23 December 1971, c. 93.

*Important Provisions of the Act*

Section 2 of the Act has amended article 239A of the Constitution relating to creation of local Legislatures or Council of Ministers or both for certain Union territories. Under the amendment, the Union territory of Mizoram has been included in clause (1) of article 239A.

Section 3 inserted a new article 239B after article 239A of the Constitution. The new article 239B *inter alia* empowers the Administrator of a Union territory with Legislature to promulgate Ordinances when the Legislature is not in session. Such an Ordinance shall be promulgated by the Administrator after obtaining instructions from the President in that behalf. However, whenever the 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 an Ordinance during the period of such dissolution or suspension.

Section 4 amended article 240 of the Constitution so as to continue the power of President to make regulations for the North-East Frontier Agency even after the Agency became the Union territory of Arunachal Pradesh. Similar powers are conferred on the President with respect of the Union territory of Mizoram.

A second proviso, inserted in clause (1) of article 240, provides that whenever the body functioning as a Legislature for the Union territory of Goa, Daman and Diu, Pondicherry or Mizoram is dissolved, or the functioning of the 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. (Section 4)

Section 5 inserted a new article 371C after article 371B of the Constitution. Article 371C empowers the President to provide for the constitution and functions of a committee of the Legislative Assembly of the State of Manipur consisting of members of that Assembly elected from the Hill Areas of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning

of such committee. 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.

## XXVIII

### **THE CONSTITUTION (TWENTY-EIGHTH AMENDMENT) ACT, 1972<sup>199</sup>**

#### *Objects and Reasons of the Bill*

Article 314 of the Constitution guaranteed to persons, who were appointed by the Secretary of State or Secretary of State-in-Council to a civil service of the Crown in India and who continued to serve after the commencement of the Constitution under the Government of India or of a State, the same conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit, as such persons were entitled to immediately before such commencement. The concept of a class of officers with immutable conditions of service was incompatible with the changed social order. It was, therefore, considered necessary to amend the Constitution to provide for the deletion of article 314 and for the inclusion of new article 312 A which confers powers on Parliament to vary or revoke by law the conditions of service of the officers aforesaid and contains appropriate consequential and incidental provisions. The Bill sought to give effect to the above objects.

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<sup>199</sup> Bill No. 55 of 1972; Introduced as the Constitution (Thirty-first Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Home Affairs, Shri R.N. Mirdha on 26 May 1972; Debated, Lok Sabha: 29 May 1972; Rajya Sabha: 30 and 31 May 1972; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Gujarat, Haryana, Jammu and Kashmir, Madhya Pradesh, Maharashtra, Meghalaya, Mysore, Nagaland, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Assent: 27 August 1972; Date of Gazette Notification: 28 August 1972; Date of Commencement: 29 August 1972.

*Legislative History*

The Constitution (Twenty-eighth Amendment) Act, 1972, when introduced in the Lok Sabha on 26 May 1972, was titled as the Constitution (Thirty-first Amendment) Bill, 1972<sup>200</sup>. The Bill sought to: (i) insert a new article 312A of the Constitution and (ii) omit article 314 of the Constitution.

The Bill was considered by the Lok Sabha on 29 May and passed on the same day with only formal amendments replacing the words “Thirty-first Amendment” by the words “Twenty-eighth Amendment” in the short title as also in the proposed new article 312A<sup>201</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 30 and 31 May and passed by that House on 31 May 1972<sup>202</sup>.

*Important Provisions of the Act*

This Act shall come into force on such date as the Central Government may appoint. (Section 1)

Article 312A was inserted in the Constitution with a view to empower Parliament: (a) to vary or revoke the conditions of service 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 the Constitution, continuing on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post; (b) to vary or revoke 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 the Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972. However, in the case of any such person who

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<sup>200</sup> L.S. Deb., 26 May 1972, c. 199.

<sup>201</sup> Ibid., 29 May 1972, cc. 313-314, 321, 329 and 345.

<sup>202</sup> R.S. Deb., 31 May 1972, c. 194.

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 Chief Election Commissioner, nothing in (a) or (b) above 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.

The Supreme Court or any other Court shall not 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; and (b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted. (Section 2)

Section 3 omitted article 314 of the Constitution.

## XXIX

### **THE CONSTITUTION (TWENTY-NINTH AMENDMENT) ACT, 1972<sup>203</sup>**

#### *Objects and Reasons of the Bill*

The Kerala Land Reforms Act, 1963 (Act 1 of 1964) is the principal land reform law in the State of Kerala and was included in the Ninth

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<sup>203</sup> Bill No. 56 of 1972; Introduced as the Constitution (Thirty-second Amendment) Bill in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 26 May 1972; Debated, Lok Sabha: 29 May 1972, Rajya Sabha: 31 May 1972; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mysore, Nagaland, Punjab, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Assent: 9 June 1972; Date of Gazette Notification: 9 June 1972; Date of Commencement: 9 June 1972.

Schedule to the Constitution. In the course of implementation, the State Government faced serious practical difficulties and to overcome them, the Act was extensively amended by the Kerala Land Reforms (Amendment) Act, 1969 (Act 35 of 1969) and by the Kerala Land Reforms (Amendment) Act, 1971 (Act 25 of 1971). Certain crucial provisions of the principal Act as amended were challenged in the High Court of Kerala and in the Supreme Court creating a climate of uncertainty in the effective implementation of land reforms. Although the High Court of Kerala had generally upheld the scheme of land reforms envisaged in the principal Act as amended, a few vital provisions had been struck down by the High Court. Even in regard to the provisions upheld by the High Court, the affected parties had moved the Supreme Court in appeal. Some persons also moved the Supreme Court in original petitions challenging certain provisions of the Act. The Supreme Court in its judgment delivered on 26 and 28 April 1972 generally upheld the scheme of land reforms as envisaged in the principal Act as amended but agreed with the High Court invalidating certain crucial provisions. It was feared that this would have far-reaching adverse effects on the implementation of the programme of land reforms in the State and thousands of tenants would be adversely affected by some of the provisions which had been either struck down or rendered ineffective. It was also apprehended that certain observations of the Supreme Court in the judgments might open the floodgates of litigation much to the detriment of thousands of Kudikidappukars in the State who would not be able to defend themselves in protracted legal proceedings. Further appeals had been preferred against the judgment of the Kerala High Court invalidating certain important provisions of the principal Act as amended, *e.g.*, sections 4A(1)(a) and (b), 7, 7B(1) and 106, and they were pending in the Supreme Court.

It was, therefore, proposed to include the Kerala Land Reforms (Amendment) Act, 1969 and the Kerala Land Reforms (Amendment) Act, 1971 in the Ninth Schedule to the Constitution so that they might have the protection under article 31B and any uncertainty or doubt that might arise in regard to the validity of those Acts was removed. The Bill sought to achieve this object.

*Legislative History*

The Constitution (Twenty-ninth Amendment) Act, 1972, when introduced in the Lok Sabha on 26 May 1972, was titled as the Constitution (Thirty-second Amendment) Bill, 1972<sup>204</sup>. The Bill sought to amend the Ninth Schedule to the Constitution.

The Bill was considered and passed by the Lok Sabha on 29 May 1972, with a formal amendment changing its short title from the Constitution (Thirty-second Amendment) Act to the Constitution (Twenty-ninth Amendment) Act<sup>205</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 31 May 1972<sup>206</sup>.

Clause 2 of the Bill was adopted, in the original form by the Lok Sabha and the Rajya Sabha on 29 and 31 May 1972, respectively<sup>207</sup>.

*Important Provisions of the Act*

The Act added to the Ninth Schedule to the Constitution 2 additional State enactments relating to land reforms with a view to provide that the enactments shall not be deemed to be void on the ground that they are inconsistent with any of the provisions of Part III of the Constitution relating to Fundamental Rights. (Section 2)

### XXX

#### **THE CONSTITUTION (THIRTIETH AMENDMENT) ACT, 1972<sup>208</sup>**

*Objects and Reasons of the Bill*

This Bill sought to give effect to the recommendations of the Law Commission of India in its Forty-fourth and Forty-fifth Report on Civil Appeals to the Supreme Court on certificate of fitness. At present, an

<sup>204</sup> L.S. Deb., 26 May 1972, c. 200.

<sup>205</sup> Ibid., cc. 393, 402 and 410.

<sup>206</sup> R.S. Deb., 31 May 1972, cc. 246, 250.

<sup>207</sup> L.S. Deb., 29 May 1972, cc. 393, 402; R.S. Deb., 31 May 1972, cc. 241, 246.

<sup>208</sup> Bill No. 53 of 1972; Introduced in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 24 May 1972; Debated, Lok Sabha: 17 August 1972; Rajya Sabha: 22 August 1972; President's Assent: 22 February 1973; Date of Gazette Notification: 22 February 1973; Date of Commencement: 27 February 1973.

Appeal lies to the Supreme Court, *inter alia*, on a certificate given by a High Court that the amount or the value of the subject-matter of dispute is not less than twenty thousand rupees or that the judgment, decree or final order involves, directly or indirectly, some claim or question respecting property of the like amount. The valuation cannot be the rational yard-stick for a right to appeal. An important question of law can arise even in suits of small value and the test of valuation results in cases without merit going up to the Supreme Court. The Law Commission recommended that clauses (a) and (b) of article 133(1) of the Constitution should be omitted and that an appeal should lie to the Supreme Court only if the High Court certifies that the case involves a substantial question of law of general importance and that in the opinion of the High Court the said question needs to be decided by the Supreme Court. The amendment of the article accordingly would curtail the number of appeals which are filed in the Supreme Court merely on the valuation test being satisfied, without any merit in them. The Bill sought to achieve this object.

#### *Legislative History*

The Constitution (Thirtieth Amendment) Bill, 1972 was introduced in the Lok Sabha on 24 May 1972<sup>209</sup>. The Bill sought to amend article 133 of the Constitution.

The Bill was considered and passed in the original form by the Lok Sabha on 17 August 1972 and the Rajya Sabha on 22 August 1972<sup>210</sup>.

#### *Important Provisions of the Act*

This Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

The existing clause (1) of article 133 of the Constitution was substituted by a new clause. The new clause provides that 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 if the High Court certifies: (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. (Section 2)

<sup>209</sup> L.S. Deb., 24 May 1972, c. 195.

<sup>210</sup> Ibid., 17 August 1972, c. 270; R.S. Deb., 22 August 1972, c. 248.

Nothing in this Act shall affect: (a) any appeal under sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (1) of article 133 of the Constitution which immediately before the commencement of this Act was pending before the Supreme Court or (b) any appeal preferred on or after the commencement of this Act against any judgment, decree or final order in a civil proceeding of a High Court by virtue of a certificate given by the High Court before the commencement of this Act under sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (1) of article 133. Every such appeal may be heard and disposed of or, as the case may be, entertained, heard and disposed of by the Supreme Court as if this Act had not been passed. Subject to the above provisions, no appeal shall lie to the Supreme Court under clause (1) of article 133 of the Constitution from any judgment, decree or final order arising out of a suit or other civil proceeding which was instituted or commenced in any Court before the commencement of this Act unless such appeal satisfies the provisions of that clause as amended by this Act. (Section 3)

## XXXI

### **THE CONSTITUTION (THIRTY-FIRST AMENDMENT) ACT, 1973<sup>211</sup>**

#### *Objects and Reasons of the Bill*

Clause (1) of article 81 of the Constitution provides that the House of the People shall consist of not more than 500 members to be chosen by direct election from territorial constituencies in the States and not more than 25 members to represent the Union territories chosen in such manner as Parliament may by law provide. As a result of the enactment of the North-Eastern Areas (Re-organisation) Act, 1971 (81 of 1971), the total number of seats in the Lok Sabha allotted to the

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<sup>211</sup> Bill No. 31 of 1973; Introduced in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 26 April 1973; Debated, Lok Sabha: 8 May 1973; Rajya Sabha: 15 May 1973; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Nagaland, Punjab, Rajasthan, Tamil Nadu, Tripura and West Bengal; President's Assent: 17 October 1973; Date of Gazette Notification: 17 October 1973; Date of Commencement: 17 October 1973.

States increased to 506, six more than the permissible limit of 500 under article 81. The actual total number of elected members of the the Lok Sabha was 522 (489 from the fifteen major States, 17 from the six smaller States of Himachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Nagaland and Tripura each of which has population of less than six million and 16 from the nine Union territories).

Clause (2) of article 81 of the Constitution lays down that for the purposes of sub-clause (a) of clause (1), 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 that 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. Under clause (3) of article 81, the expression “population” means the population as ascertained in the last preceding census of which the relevant figures have been published. Article 82 enjoins that on 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. In pursuance of article 82, Parliament has enacted the Delimitation Act, 1972 and the Delimitation Commission has been constituted to undertake the necessary task of the readjustment envisaged in article 82. It will be noticed that adherence to the principles laid down in clause (2) of article 81 by the Delimitation Commission in undertaking readjustment as enjoined by article 82 on the basis of the 1971 census figures may have the effect of affecting the number of seats allotted to the States in the House of the People. It was felt that it would be better to ensure that any readjustment and consequent allocation of seats did not adversely affect the existing number of seats allotted to each State in the House of the People and to achieve this purpose it would be necessary to increase the strength of the Lok Sabha suitably.

In order to ensure that there is no reduction in the existing representation in the House of the People in respect of any of the States, section 2 of the Act amends article 81 so as to increase the upper limit for representation of the States from 500 to 525. The opportunity is taken to decrease the limit for the Union territories from 25 to 20, as the existing representation for Union territories is only 16.

The Government also considered it necessary to make an amendment in clause (2) of article 81 to provide that the provisions of sub-clause (a) of clause (2) of article 81 shall not be applicable to any State so long as its population did not exceed six million. This is to ensure that the existing representation in the Lok Sabha is maintained for the smaller States referred to in Paragraph 1 above.

Article 330 of the Constitution relates to reservation of seats in the Lok Sabha for Scheduled Castes and Scheduled Tribes. The provisions of this article have, however, been made inapplicable to the State of Nagaland on the ground that it has a predominantly tribal population. According to the 1971 census, 88.6 per cent of Nagaland's population belong to the Scheduled Tribes. The corresponding figures for the State of Meghalaya and the Union territories of Arunachal Pradesh and Mizoram are 80.5 per cent, 79 per cent and 94.3 per cent, respectively. The Government, therefore, considered that the provisions of article 330 should not apply also to the predominantly tribal units of Meghalaya, Arunachal Pradesh and Mizoram. Similarly, it was considered that as in the case of Nagaland, there need be no reservation of seats for Scheduled Tribes in the Legislative Assembly of the State of Meghalaya and that article 332 of the Constitution might be amended suitably. The Bill sought to achieve the above mentioned objects.

#### *Legislative History*

The Constitution (Thirty-first Amendment) Bill, 1973 was introduced in the Lok Sabha on 26 April 1973<sup>212</sup>. The Bill sought to amend articles 81, 330 and 332 of the Constitution.

The Bill was considered by the Lok Sabha on 8 May 1973 and as amended, passed on the same day<sup>213</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 15 May 1973<sup>214</sup>.

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<sup>212</sup> *L.S. Deb.*, 26 April 1973, c. 161.

<sup>213</sup> *Ibid.*, 8 May 1973, c. 312.

<sup>214</sup> *R.S. Deb.*, 15 May 1973, cc. 247-248.

Clauses 1, 2 and 4 of the Bill were adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 8 and 15 May 1973, respectively<sup>215</sup>.

*Amendment of Article 330*

Clause 3 of the Bill sought to amend article 330 of the Constitution. The original clause read as under:

3(1) In article 330 of the Constitution, in sub-clause (b) of clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland; and”, the following shall be substituted namely:

“except the Scheduled Tribes:

- (i) in the tribal areas of Assam;
- (ii) in Nagaland;
- (iii) in Meghalaya;
- (iv) in Arunachal Pradesh; and
- (v) in Mizoram; and”

(2) The amendments made to article 330 of the Constitution by sub-section (1) shall not affect any representation in the House of the People until the dissolution of the House of the People existing at the commencement of this Act.

In the aforesaid clause 3, two amendments, moved by Shri Nitiraj Singh Chaudhary, Minister of State in the Ministry of Law, Justice and Company Affairs in the Lok Sabha, were accepted<sup>216</sup>. These amendments had been moved with a view to insert a new clause (3) in article 330 of the Constitution.

Clause 3 of the Bill was adopted, in this amended form, by the Lok Sabha and the Rajya Sabha on 8 and 15 May 1973, respectively<sup>217</sup>.

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<sup>215</sup> L.S. Deb., 8 May 1973, cc. 289, 302; R.S. Deb., 15 May 1973, cc. 235, 241 and 244.

<sup>216</sup> L.S. Deb., 8 May 1973, cc. 289-290.

<sup>217</sup> Ibid., c. 296; R.S. Deb., 15 May 1973, c. 238.

*Important Provisions of the Act*

Section 2 has amended article 81 of the Constitution. Clause (1) of this article was amended so as to increase the upper limit for representation of States in the House of the People from 500 to 525 and to bring down the upper limit for representation of Union territories from 25 to 20. Further, in clause (2) after sub-clause (b), a proviso was inserted to provide that the provisions of sub-clause (a) of clause (2) 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.

Section 3 has amended article 330 which relates to reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People. Sub-clause (b) of clause (1) of article 330 was amended with a view to exclude the Scheduled Tribes in Meghalaya, Arunachal Pradesh and Mizoram also insofar as reservation of seats for Scheduled Tribes in the House of the People is concerned.

After clause (2) of article 330, clause (3) was inserted to provide that 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.

The amendments to article 330 shall not affect any representation in the House of the People until the dissolution of the House existing at the commencement of the present Act. (Section 3)

Section 4 substituted the words, “except the Scheduled Tribes in the tribal areas of Assam, in Nagaland and in Meghalaya” for the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland” in clause (1) of article 332 of the Constitution in order to dispense with the necessity of reserving seats for Scheduled Tribes in the Legislative Assembly of the State of Meghalaya also. However, this amendment shall not affect any representation in the Legislative Assembly of the State of Meghalaya until the dissolution of that Legislative Assembly existing at the commencement of the present Act.

## XXXII

### **THE CONSTITUTION (THIRTY-SECOND AMENDMENT) ACT, 1973<sup>218</sup>**

#### *Objects and Reasons of the Bill*

When the State of Andhra Pradesh was formed in 1956, certain safeguards were envisaged for the Telangana area in the matter of development and also in the matter of employment opportunities and educational facilities for the residents of that area. The provisions of clause (1) of article 371 of the Constitution were intended to give effect to certain features of these safeguards. The Public Employment (Requirement as to Residence) Act, 1957 was enacted *inter alia* to provide for employment opportunities for residents of Telengana area. But in 1969, the Supreme Court held the relevant provision of the Act as unconstitutional insofar as it related to the safeguards envisaged for the Telengana area. Owing to a variety of causes, the working of the safeguard gave rise to a certain amount of dissatisfaction sometimes in the Telengana area and sometimes in the other areas of the State. Measures were devised from time to time to resolve the problems. During 1973, several leaders of Andhra Pradesh made a concerted effort to analyse the factors which had been giving rise to the dissatisfaction and find enduring answers to the problems with a view to achieving fuller emotional integration of the people of Andhra Pradesh. On 21 September 1973, they suggested certain measures (generally known as the Six-Point Formula) indicating a uniform approach for promoting accelerated development of the backward areas of the State so as to secure the balanced development

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<sup>218</sup> Bill No. 99 of 1973; Introduced as the Constitution (Thirty-third Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Home Affairs, Shri Ram Niwas Mirdha on 14 December 1973; Debated, Lok Sabha: 18 December 1973; Rajya Sabha: 19 and 20 December 1973; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Asssent: 3 May 1974; Date of Gazette Notification: 3 May 1974; Date of Commencement: 1 July 1974.

of the State as a whole and for providing equitable opportunities to different areas of the State in the matter of education, employment and career prospects in public services. This formula received wide support in Andhra Pradesh and was endorsed by the State Government.

The present Bill sought to provide the necessary constitutional authority for giving effect to the Six-Point Formula insofar as it relates to the provision of equitable opportunities for people of different areas of the State in the matter of admission to educational institutions and public employment. The Bill also sought to provide, *inter alia*, for the constitution of an Administrative Tribunal to deal with certain disputes and grievances relating to public services. It also sought to empower Parliament to legislate for establishing a Central University in the State, and contained provisions of an incidental and consequential nature including the provisions for the validation of certain appointments made in the past. As the Six-Point Formula provided for the discontinuance of the Regional Committee constituted under clause (1) of article 371 of the Constitution, the Bill also sought to provide for the repeal of that clause.

#### *Legislative History*

The Constitution (Thirty-second Amendment) Act, 1973, when introduced in the Lok Sabha on 14 December 1973, was titled as the Constitution (Thirty-third Amendment) Bill, 1973<sup>219</sup>. The Bill sought to: (i) amend article 371 and the Seventh Schedule to the Constitution and (ii) insert new articles 371D and 371E in the Constitution.

The Bill was considered by the Lok Sabha on 18 December 1973 and, as amended, passed on the same day<sup>220</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 20 December 1973<sup>221</sup>.

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<sup>219</sup> *L.S. Deb.*, 14 December 1973, cc. 277, 284.

<sup>220</sup> *Ibid.*, 18 December 1973, c. 375.

<sup>221</sup> *R.S. Deb.*, 20 December 1973, c. 239.

Clauses 2 and 4 of the Bill were adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 18 and 20 December 1973, respectively<sup>222</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Thirty-third” by the word “Thirty-second”<sup>223</sup>. Similar amendments were effected in clause 3 of the Bill which sought to insert new articles 371D and 371E in the Constitution<sup>224</sup>. Clauses 1 and 3, as amended by the Lok Sabha, were adopted by the Rajya Sabha on 20 December 1973<sup>225</sup>.

#### *Important Provisions of the Act*

Section 1 provides that this Act shall come into force on such date as the Central Government may appoint.

Section 2 omits clause (1) of article 371 of the Constitution which relates to the constitution of Regional Committees of the Legislative Assembly of the State of Andhra Pradesh.

Section 3 has inserted new articles 371D and 371E. The new article 371D contains special provisions with respect to the State of Andhra Pradesh. Under this article, the President may, by order, provide:

- (i) having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State in the matter of public employment and education, and different provisions may be made for various parts of the State and
- (ii) for the constitution of an Administrative Tribunal for the State of Andhra Pradesh to exercise such jurisdiction, powers and authority as may be specified in the order with respect to certain specified matters, e.g., such 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.

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<sup>222</sup> L.S. Deb., 18 December 1973, cc. 335, 355 and 364; R.S. Deb., 20 December 1973, cc. 223, 230.

<sup>223</sup> L.S. Deb., 18 December 1973, cc. 355, 364.

<sup>224</sup> Ibid., cc. 335-336 and 346.

<sup>225</sup> R.S. Deb., 20 December 1973, cc. 226, 234.

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. However, the State Government may by special order, modify or annul any order of the Tribunal before it becomes effective. Every such special order is required to be laid before both Houses of the State Legislature.

The High Court for the State shall not have any power 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. If the President is satisfied that the continued existence of the Administrative Tribunal is not necessary, he may abolish it. (Section 3)

Appointments, postings, promotions or transfers of persons to certain posts in the past made before: (i) 1 November 1956 to the posts under the Government of, or any local authority within the State of Hyderabad as it existed before that date or (ii) the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to posts under the Government of, or any local or other authority within the State of Andhra Pradesh, and any action taken or thing done by or before any such person, shall not 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 any 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.

The provisions of article 371D and of any order made by the President thereunder shall have effect notwithstanding anything in any other provision of the Constitution or in any other law for the time being in force. (Section 3)

The new article 371E empowers Parliament to provide for the establishment of a University in the State of Andhra Pradesh. The Seventh Schedule of the Constitution (List I Entry 63) has been accordingly amended to include the words “the University established in pursuance of article 371E.” (Sections 3-4)

## **XXXIII**

### **THE CONSTITUTION (THIRTY-THIRD AMENDMENT) ACT, 1974<sup>226</sup>**

#### *Objects and Reasons of the Bill*

Articles 101(3)(b) and 190(3) of the Constitution permit a member of either House of Parliament or a member of a House of the Legislature of a State to resign his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be. In the recent past, there had been instances where coercive measures had been resorted to for compelling members of a Legislative Assembly to resign their membership. If this was not checked, it might become difficult for Legislatures to function in accordance with the provisions of the Constitution. It was, therefore, proposed to amend the above two articles to impose a requirement as to acceptance of the resignation by the Speaker or the Chairman and to provide that the resignation shall not be accepted by the Speaker or the Chairman if he was satisfied after making such inquiry as he thought fit that the resignation was not voluntary or genuine. The Bill sought to achieve the above mentioned object.

#### *Legislative History*

The Constitution (Thirty-third Amendment) Act, 1974, when introduced in the Lok Sabha on 3 May 1974, was titled as the Constitution (Thirty-fifth Amendment) Bill, 1974<sup>227</sup>. The Bill sought to amend articles 101 and 190 of the Constitution.

The Bill was considered by the Lok Sabha on 8 May 1974 and passed on the same day with only a formal amendment replacing the words “Thirty-fifth Amendment” in clause 1 by the words “Thirty-

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<sup>226</sup> Bill No. 52 of 1974; Introduced as the Constitution (Thirty-fifth Amendment) Bill in Lok Sabha by the Minister of Law and Justice, Shri H.R. Gokhale on 3 May 1974; Debated, Lok Sabha: 8 May 1974; Rajya Sabha: 9, 13 and 14 May 1974; President’s Assent: 19 May 1974; Date of Gazette Notification: 20 May 1974; Date of Commencement: 19 May 1974.

<sup>227</sup> L.S. Deb., 3 May 1974, c. 277.

third Amendmnet".<sup>228</sup> The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 13 and 14 May and passed by that House on 14 May 1974<sup>229</sup>.

*Important Provisions of the Act*

Section 2 has amended clause (3) of article 101 of the Constitution. It substitutes a new sub-clause for the existing sub-clause (b) in clause (3) of article 101 and inserts a proviso at the end of the said clause (3). The new article 101(3)(b) provides that if a member of either House of Parliament 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. However, in the case of any resignation referred to above, 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.

Section 3 makes amendments, similar to those made by section 2 above, in clause (3) of article 190 of the Constitution, which deals, *inter alia*, with the vacation of seat on account of resignation by a member of a House of the Legislature of a State.

## XXXIV

### **THE CONSTITUTION (THIRTY-FOURTH AMENDMENT) ACT, 1974<sup>230</sup>**

*Objects and Reasons of the Bill*

The Chief Minister's Conference held on 23 July 1972 had made important suggestions with regard to reduction in the level of ceiling

<sup>228</sup> *Ibid.*, 8 May 1974, cc. 403, 312-319.

<sup>229</sup> *R.S. Deb.*, 14 May 1974, cc. 26-109.

<sup>230</sup> Bill No. 51 of 1974; Introduced in Lok Sabha by the Minister of State in the Ministry of Agriculture, Shri A.P. Shinde on 3 May 1974; Debated, Lok Sabha: 26 August 1974; Rajya Sabha: 28 August 1974; President's Assent: 7 September 1974; Date of Gazette Notification: 7 September 1974; Date of Commencement: 7 September 1974.

on land holdings, application of ceiling on the basis of land held by a family and the withdrawing of exemptions. The suggestions of the Chief Minister's Conference were accepted by the Government of India and necessary guidelines were issued to the State Governments for the revision of ceiling laws.

The Bill sought to amend the Ninth Schedule to the Constitution to include therein the revised ceiling laws so far enacted in broad conformity with the aforesaid guidelines so as to give them the protection under article 31B of the Constitution and to remove any uncertainty or doubt that may arise in regard to the validity of those laws. In addition, two Acts dealing with the abolition of intermediary tenures were also proposed to be included in the Ninth Schedule, namely, the Bihar Land Reforms (Amendment) Act, 1972 and the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 in order to give them the same protection.

The Bill sought to achieve this object.

#### *Legislative History*

The Constitution (Thirty-fourth Amendment) Bill, 1974 was introduced in the Lok Sabha on 3 May 1974<sup>231</sup>. The Bill sought to amend the Ninth Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 26 August 1974 and passed, as amended, on the same day<sup>232</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 28 August 1974<sup>233</sup>.

#### *Amendment of the Ninth Schedule*

Clause 2 of the Bill, as introduced, sought insertion of 17 new entries—State Acts dealing with land ceilings or other land reforms—in the Ninth Schedule. During consideration of the clause by the Lok Sabha on 26 August 1974, an amendment moved by Shri C. Subramaniam, Minister of Industrial Development and Science and Technology and Agriculture, seeking insertion of three additional State Acts in the Ninth Schedule, was accepted by the House and the clause,

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<sup>231</sup> *L.S. Deb.*, 3 May 1974 c. 247.

<sup>232</sup> *Ibid.*, 26 August 1974, cc. 262-368.

<sup>233</sup> *R.S. Deb.*, 28 August 1974, cc. 146-258.

as so amended, was adopted<sup>234</sup>. Clause 2, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 28 August 1974<sup>235</sup>.

*Important Provisions of the Act*

The Act adds to the Ninth Schedule of the Constitution, 20 additional State enactments (new Entries 67 to 86) relating to land ceiling and land reforms so as to clarify that the said enactments will not be open to challenge on the ground that they are inconsistent with any provisions of Part III of the Constitution relating to Fundamental Rights. (Section 2)

## XXXV

### **THE CONSTITUTION (THIRTY-FIFTH AMENDMENT) ACT, 1974<sup>236</sup>**

*Objects and Reasons of the Bill*

In pursuance of the agreement of 8 May 1973 between the Chogyal—the leaders of the political parties representing the people of Sikkim and the Government of India and of the unanimous desire of the members of the Sikkim Assembly expressed in the meetings of the Assembly held on 11 May 1974, for the progressive realisation of a fully responsible Government in Sikkim and for furthering its close relationship with India, the Sikkim Assembly considered and passed the Government of Sikkim Bill, 1974 unanimously. The Chogyal promulgated this Bill on 4 July 1974 as the Government of Sikkim Act, 1974. For the speedy development of Sikkim in the social, economic and political fields, section 30 of the Government of Sikkim

<sup>234</sup> L.S. Deb., 26 August 1974, cc. 341-351.

<sup>235</sup> R.S. Deb., 28 August 1974, cc. 243-247.

<sup>236</sup> Bill No. 91 of 1974; Introduced as the Constitution (Thirty-sixth Amendment) Bill in Lok Sabha by the Minister of External Affairs, Shri Swaran Singh on 2 September 1974; Debated, Lok Sabha: 4 September 1974; Rajya Sabha: 7 September 1974; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Manipur, Meghalaya, Orissa, Punjab, Rajasthan, Tripura, Uttar Pradesh and West Bengal; President's Assent: 22 February 1975; Date of Gazette Notification: 22 February 1975; Date of Commencement: 1 March 1975.

Act, 1974 empowers the Government of Sikkim, *inter alia*, to seek participation and representation for the people of Sikkim in the political institutions of India. On 28 June 1974, after passing the Government of Sikkim Bill, the Sikkim Assembly resolved unanimously that measures should be taken, amongst other things, for seeking representation for the people of Sikkim in India's parliamentary system.

After the promulgation of the Government of Sikkim Act, the Chief Minister of Sikkim made formal requests to the Government of India through the Chief Executive requesting the Government of India to take such steps as may be legally or constitutionally necessary to give effect to the Government of Sikkim Act, 1974 and the resolutions passed by the Assembly and, particularly, for providing for representation for the people of Sikkim in Parliament.

With a view to giving effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship, this Bill sought to amend the Constitution to provide for the terms and conditions of association of Sikkim with the Union. The terms and conditions are set out in the Tenth Schedule added to the Constitution by section 5 of this Bill. Apart from referring to the responsibilities of the Government of India and the powers of the President in this regard, the Schedule provides for allotment to Sikkim of one seat in the Council of States and one seat in the House of the People and for the election of the representatives of Sikkim in the Council of States and the House of the People by the members of the Sikkim Assembly.

#### *Legislative History*

The Constitution (Thirty-fifth Amendment) Act, 1974, when introduced in the Lok Sabha on 2 September 1974, was titled as the Constitution (Thirty-sixth Amendment) Bill, 1974<sup>237</sup>. The Bill sought to: (i) amend articles 80 and 81 and (ii) insert a new article 2A and a new Schedule—the Tenth Schedule, in the Constitution.

The Bill was considered by the Lok Sabha on 4 September 1974 and, as amended, passed<sup>238</sup> on the same day. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 7 September 1974<sup>239</sup>.

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<sup>237</sup> *L.S. Deb.*, 2 September 1974, c. 59.

<sup>238</sup> *Ibid.*, 4 September 1974, c. 318.

<sup>239</sup> *R.S. Deb.*, 7 September 1974, c. 223.

Clauses 2 to 4 of the Bill were adopted, in the original form, by both the Lok Sabha and the Rajya Sabha. Clause 1 of the Bill was adopted by the Lok Sabha with only a formal amendment changing the short title to “The Constitution (Thirty-fifth Amendment) Act”<sup>240</sup>. During consideration of clause 5 by the Lok Sabha on 4 September 1974, amendments moved by Shri Swaran Singh, Minister of External Affairs seeking substitution of new sub-paras for the existing sub-paras (b) to (d) in Para 4 of new Tenth Schedule relating to Sikkim’s representation in Parliament, were accepted<sup>241</sup> by the House and the clause, as so amended, was adopted. Clauses 1 and 5, as amended by the Lok Sabha, were adopted<sup>242</sup> by the Rajya Sabha on 7 September 1974.

#### *Important Provisions of the Act*

Section 1 has provided that this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 2 has inserted a new article 2A after article 2 of the Constitution. The new article 2A provided for association of Sikkim with the Indian Union on terms and conditions set out in the Tenth Schedule.

Section 3 has amended article 80 of the Constitution. The amendment stipulated that the composition of the Council of States as laid down in article 80 shall be subject to the provisions of the Tenth Schedule added to the Constitution by section 5 of this Act. Through this amendment, Sikkim is allotted one seat in the Council of States, the representative to be elected by the members of the Sikkim Assembly.

Section 4 has amended article 81 of the Constitution. The amendment stipulated that the composition of the House of the People, as laid down in article 81, shall also be subject to the provisions of the Tenth Schedule. Through this amendment, Sikkim is allotted one seat in the House of the People, the representative to be chosen by direct election. For the purposes of election of representative of Sikkim in the House of the People, the whole of Sikkim shall form one parliamentary constituency. It is also provided that the representative of Sikkim in the

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<sup>240</sup> L.S. Deb., 4 September 1974, c. 296.

<sup>241</sup> Ibid., c. 284.

<sup>242</sup> R.S. Deb., 7 September 1974, c. 205.

House of the People in existence at the commencement of this Act, shall be elected by the members of the Sikkim Assembly.

Section 5 has added a new Schedule—the Tenth Schedule to the Constitution. The new Schedule sets out the terms and conditions of association of Sikkim with the Indian Union. Among other things, it enumerates the responsibilities of the Government of India with regard to Sikkim. The Government of India shall be solely responsible for the defence and territorial integrity of Sikkim and for the conduct and regulation of its external relations whether political, economic or financial. The exclusive rights of constructing, maintaining and regulating the use of railways, aerodromes, landing grounds and air navigation facilities, posts, telegraphs, telephones and wireless installations in Sikkim are also vested in the Government of India. The new Schedule also provides for the representation of Sikkim in the Indian Parliament, the procedure for election of the Sikkimese representatives, the qualifications for membership, etc.

The provisions of the Schedule are in addition to, and not in derogation of, any other power, jurisdiction, rights and authority which the Government of India has or may have in or in relation to Sikkim under any agreement, grant, usage, sufferance or other lawful arrangement.

## XXXVI

### **THE CONSTITUTION (THIRTY-SIXTH AMENDMENT) ACT, 1975<sup>243</sup>**

#### *Objects and Reasons of the Bill*

The Sikkim Assembly unanimously adopted a resolution on 10 April 1975 which, *inter-alia*, noted the persistent harmful activities

<sup>243</sup> Bill No. 38 of 1975; Introduced as the Constitution (Thirty-eighth Amendment) Bill in the Lok Sabha by the Minister of External Affairs, Shri Yashwant Rao Chavan on 21 April 1975; Debated, Lok Sabha: 23 April 1975; Rajya Sabha: 26 April 1975; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Assent: 16 May 1975; Date of Gazette Notification: 16 May 1975; Date of Commencement: 26 April 1975.

of the Chogyal which were aimed at undermining the responsible democratic government set up under the provisions of the agreement of 8 May 1973 and the Government of Sikkim Act, 1974. The resolution declared that the Assembly had satisfied itself that these activities of the Chogyal not only violated the objectives of the Agreement of 8 May 1973, but also ran counter to the wishes of the people of Sikkim and impeded their democratic development and participation in the political and economic life of India. Accordingly, the Assembly solemnly declared and resolved that “The institution of the Chogyal is hereby abolished and Sikkim shall henceforth be a constituent unit of India, enjoying a democratic and fully responsible Government”.

The Assembly also resolved that this resolution be submitted to the people of Sikkim forthwith for their approval. A special opinion poll conducted by the Government of Sikkim on 14 April 1975 resulted in a total of 59,637 votes in favour and 1,496 votes against the resolution out of a total electorate of approximately 97,000.

The result of this poll was communicated to the Government of India by the Chief Minister of Sikkim on 15 April 1975. The Chief Minister, on behalf of the Council of Ministers, strongly requested the Government of India to make an immediate response and accept the above decision as had been requested in the Assembly resolution of 10 April 1975, and take such measures as may be necessary and appropriate to implement the decision as early as possible.

The Chief Minister and other Ministers of Sikkim also visited New Delhi on 16 and 17 April 1975 and urged the Government of India to take immediate action in this behalf.

Accordingly, the Bill proposed to include Sikkim as a full-fledged State in the First Schedule to the Constitution and to allot to Sikkim one seat in the Council of States and one seat in the House of the People. It also proposed to insert a new article containing the provisions considered necessary to meet the special circumstances and needs of Sikkim.

#### *Legislative History*

The Constitution (Thirty-sixth Amendment) Act, 1975, when introduced in the Lok Sabha on 21 April 1975, was titled as the

Constitution (Thirty-eighth Amendment) Bill, 1975<sup>244</sup>. The Bill sought to: (i) amend articles 80 and 81 and the First and Fourth Schedules to the Constitution; (ii) insert a new article 371F and (iii) omit article 2A and the Tenth Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 23 April 1975 and, as amended, passed by the House<sup>245</sup> on the same day. The Bill as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 26 April 1975<sup>246</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment changing the short title to “The Constitution (Thirty-sixth Amendment) Act”<sup>247</sup>. Clause 2 of the Bill was also adopted by the House with a formal amendment substituting the word “Thirty-sixth Amendment” for “Thirty-eighth Amendment”<sup>248</sup>. During consideration of clause 3 by the Lok Sabha, amendment moved by Shri P. Venkatasubbiah seeking substitution of a new sub-clause for sub-clause (c) in new article 371F accepted<sup>249</sup> by the House and the clause, as so amended, was adopted with formal amendment of sub-clauses (b) and (p) of new article 371F replacing the words “Thirty-eighth Amendment” by the words “Thirty-sixth Amendment”<sup>250</sup>. Clauses 4 and 5 of the Bill were adopted, in the original form, by both the Lok Sabha<sup>251</sup> and the Rajya Sabha.

#### *Important Provisions of the Act*

Section 1 has provided that this Act shall be deemed to have come into force on the date on which the Bill for this Act (introduced in the House of the People as the Constitution (Thirty-eighth Amendment) Bill, 1975), as passed by the House of the People, is passed by the Council of States.

Section 2 has amended the First Schedule to the Constitution so as to include Sikkim as the twenty-second State of the Indian Union. It has also specified the territories comprised in the State of Sikkim.

<sup>244</sup> L.S. Deb., 21 April 1975, c. 245.

<sup>245</sup> Ibid., 23 April 1975, c. 351.

<sup>246</sup> R.S. Deb., 26 April 1975, c. 146.

<sup>247</sup> L.S. Deb., 23 April 1975, cc. 336-338.

<sup>248</sup> Ibid., c. 296.

<sup>249</sup> Ibid., cc. 320-321.

<sup>250</sup> Ibid., cc. 320-328.

<sup>251</sup> Ibid., cc. 328-336.

Section 3 inserted a new article 371F after article 371E of the Constitution. The new article has made certain special provisions with respect to the State of Sikkim.

Clause (a) of the new article 371F provided that the Legislative Assembly of Sikkim shall consist of not less than thirty members.

Clause (b) provided that as from the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereinafter referred to as the appointed day), the existing Legislative Assembly of Sikkim, formed as a result of the elections held in April 1974, shall be deemed to be the Legislative Assembly of that State duly constituted under the Constitution.

Clause (c) provided that in respect of the existing Legislative Assembly of Sikkim, the reference to the period of 'five years' in article 172 shall be deemed as 'four years' and the said period shall commence from the appointed day.

Under clause (d), one seat is allotted to the State of Sikkim in the House of the People and the entire State of Sikkim shall form one Parliamentary constituency.

Clause (e) provided that the representative 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 Sikkim.

Clause (f) provided for the delimitation of the Assembly constituencies for the purposes of elections to the Sikkim Assembly and for reservation for the different sections of the population.

Clause (g) placed a special responsibility on the Governor of Sikkim for ensuring peace, social and economic advancement of the people of Sikkim. It empowered him to act in his discretion subject to such directions as the President may deem fit to issue.

Clause (h) provided that all property and assets that had been vested in the Government of State of Sikkim or in any other authority or any person immediately before the appointed date, shall continue to vest in the Government of State of Sikkim from the appointed date.

Under clause (i), the High Court functioning as such in Sikkim before the appointed day, shall be deemed to be the High Court of Sikkim.

Under clause (j), the existing administrative set up in Sikkim shall continue subject to be provisions of the Constitution.

Under clause (k), all laws in force in Sikkim before the appointed day shall continue to be in force until amended or repealed by a competent Legislature or other competent authority.

Clause (l) has empowered the President to make such adaptations or modifications, within a period of two years from the appointed day, in the laws in force in State of Sikkim as may be necessary with a view to bringing the provisions of any such laws into accord with the provisions of the Constitution.

Clause (m) excluded from the jurisdiction of the Supreme Court or any other Court any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim, entered into before the appointed day and to which the Government of India or any of its predecessor Governments was a party.

Under clause (n), the President is empowered to extend any law in force in a State in India to the State of Sikkim with such amendments or modifications as he may think fit to make.

Clause (o) has provided an enabling provision by empowering the President to remove, by order, within a period of two years from the appointed day, any difficulty that may arise in giving effect to the foregoing provisions.

Clause (p) provided that all things done or action taken 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 President's assent, shall be deemed to have been validly done or taken under the Constitution.

Section 4 has amended the Fourth Schedule to the Constitution so as to include "Sikkim" as the 22<sup>nd</sup> entry in the Table showing the allocation of seats in the Council of States for allotting one seat to Sikkim in the Council of States.

Section 5 has made certain consequential amendments in articles 80 and 81 of the Constitution by omitting references to the Tenth Schedule. Article 2A and the Tenth Schedule inserted in the Constitution by the Constitution (Thirty-fifth Amendment) Act have been omitted.

## XXXVII

### **THE CONSTITUTION (THIRTY-SEVENTH AMENDMENT) ACT, 1975<sup>252</sup>**

#### *Objects and Reasons of the Bill*

The Union territory of Arunachal Pradesh had a Pradesh Council consisting mostly of representatives of Zila Parishads and functioning as an advisory body on important matters relating to the administration of the Union territory. Some members of the Pradesh Council were also associated with the Chief Commissioner in the day-to-day administration as Counsellors. This Bill sought to replace the Arunachal Pradesh Council by a Legislative Assembly and the Counsellors by a Council of Ministers as in certain other Union territories specified in article 239A of the Constitution.

Under article 240 of the Constitution, the President is empowered to make regulations for the Union territory of Arunachal Pradesh. With the constitution of a Legislative Assembly for the Union territory, it is provided that, as the case of other Union territories with Legislatures, this power may be exercised only when the Assembly is either dissolved or its functioning remains suspended. The Bill sought to amend article 240 also to achieve this object.

#### *Legislative History*

The Constitution (Thirty-seventh Amendment) Bill, 1975 was introduced in the Lok Sabha on 9 April 1975<sup>253</sup>. The Bill sought to amend articles 239A and 240 of the Constitution.

The Bill was considered and passed, in the original form, by the Lok Sabha on 23 April 1975<sup>254</sup> and by the Rajya Sabha on 26 April 1975<sup>255</sup>.

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<sup>252</sup> Bill No. 32 of 1975; Introduced in Lok Sabha by the Minister of Home Affairs, Shri K. Brahmananda Reddy on 9 April 1975; Debated, Lok Sabha: 23 April 1975; Rajya Sabha: 26 April 1975; President's Assent: 3 May 1975; Date of Gazette Notification: 5 May 1975; Date of Commencement: 3 May 1975.

<sup>253</sup> L.S. Deb., 9 April 1975, cc. 244-245.

<sup>254</sup> Ibid., 23 April 1975, c. 383.

<sup>255</sup> R.S. Deb., 26 April 1975, c. 190.

*Important Provisions of the Act*

Section 2 has amended article 239 A of the Constitution regarding creation of local Legislatures or Council of Ministers or both for certain Union territories. The amendment now includes Arunachal Pradesh in clause (1) of article 239A alongwith Pondicherry and Mizoram already listed therein for which Legislatures or Council of Ministers or both may be created.

Section 3 has amended article 240 of the Constitution regarding the power of the President to make regulations for certain Union territories. By this amendment, Arunachal Pradesh is included among the other Union territories, *viz.*, Pondicherry and Mizoram, for which regulations may be made by the President.

**XXXVIII****THE CONSTITUTION (THIRTY-EIGHTH AMENDMENT)  
ACT, 1975<sup>256</sup>***Objects and Reasons of the Bill*

Article 123 empowers the President to promulgate Ordinances when both the Houses of Parliament are not in session, if he is satisfied that circumstances exist rendering it necessary to take immediate action. Corresponding powers have been conferred by the Constitution on the Governor under article 213. Similar powers have been conferred on the Administrator under article 239B when the Legislature of a Union territory is not in session. On the plain language of articles 123, 213 and 239B, there is no doubt that the satisfaction mentioned in those articles is subjective and that it is not justiciable. This was also the intention of the makers of the Constitution. However, contentions were

<sup>256</sup> Bill No. 54 of 1975; Introduced as the Constitution (Thirty-ninth Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale on 22 July 1975; Debated, Lok Sabha: 23 July 1975; Rajya Sabha: 24 July 1975; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh and West Bengal; President's Assent: 1 August 1975; Date of Gazette Notification: 1 August 1975; Date of Commencement: 1 August 1975.

being raised that the issue was subject to judicial scrutiny and there was litigation involving the justiciability of this issue. To place the matter beyond doubt, the Bill sought to provide in the Constitution itself that the satisfaction of the President, Governor or Administrator shall be final and conclusive and shall not be questioned in any Court on any ground.

Article 352 empowers the President to declare Emergency if he is satisfied that the security of India or any part of it is threatened by war, external aggression or internal disturbance. Article 356 empowers the President to assume to himself the functions of the Government of a State if the constitutional machinery in any State fails and the Government in the State cannot be carried on. Likewise article 360 empowers the President to declare Financial Emergency if he is satisfied that the financial stability of India is threatened. Here again, the issue regarding satisfaction is on the face of the articles, clearly not justiciable. However, as the validity of the Proclamation issued under article 352 had been challenged in several proceedings and a litigation of this nature involved waste of public time and money, the Bill sought to amend these three articles so as to make the satisfaction of the President final and conclusive and not justiciable on any ground.

In relation to article 352, contentions had been raised in certain writ petitions that while the original Proclamation of Emergency was in operation no further Proclamation of Emergency could be made thereunder. In order to place the matter beyond doubt, the Bill made it clear in article 352 that the President may issue different Proclamations on different grounds whether or not there is a Proclamation already in existence and in operation.

When a Proclamation of Emergency is in operation, the President is empowered under article 359 of the Constitution to make an order suspending the right to move any Court for the enforcement of such of the rights conferred by Part III as may be mentioned in that order. It was intended that the powers conferred by this article should be exercised during an emergency according to the needs of the situation. On the other hand, article 358 renders the provisions of article 19 automatically inoperative while the Proclamation of Emergency is in operation, and the power to make any law or to take any executive action is not restricted by the provisions of that article. The intention

underlying article 359 appears to be that when an order is made under clause (1) of the article in relation to any of the rights conferred by Part III and mentioned in the order, the order so made would have for all practical purposes the same effect in relation to those rights as article 358 has in relation to article 19. The Bill sought to amend the Constitution so as not to have any differences in language between article 358 and the language of the Presidential Order under clause (1) of the article 359.

The Bill sought to amend articles 123, 213, 239B, 352, 356, 359 and 360 of the Constitution in order to achieve the aforesaid objects.

#### *Legislative History*

The Constitution (Thirty-eighth Amendment) Act, 1975, when introduced in the Lok Sabha on 22 July 1975, was titled as the Constitution (Thirty-ninth Amendment) Bill, 1975<sup>257</sup>. The Bill sought to amend articles 123, 213, 239B, 352, 356, 359 and 360 of the Constitution.

The Bill was considered by the Lok Sabha on 23 July 1975 and passed on the same day with only a formal amendment in clause 1, changing the short title to “The Constitution (Thirty-eighth Amendment) Act, 1975”<sup>258</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 24 July 1975<sup>259</sup>.

Clauses 2 to 8 of the Bill were adopted in the original form by the Lok Sabha and the Rajya Sabha.

#### *Important Provisions of the Act*

Section 2 has amended article 123 of the Constitution by inserting therein a new clause (4) which shall have retrospective effect. By insertion of this clause, the satisfaction of the President mentioned in clause (1) in relation to his power to issue Ordinances except when both the Houses of Parliament are in session, shall be final and conclusive and shall not be questioned in any Court on any ground.

<sup>257</sup> L.S. Deb., 22 July 1975, cc. 24-33.

<sup>258</sup> Ibid., 23 July 1975, c. 141.

<sup>259</sup> R.S. Deb., 24 July 1975, c. 90.

Section 3 has amended article 213 of the Constitution by inserting therein a new clause (4) which shall have retrospective effect. By insertion of this clause, the satisfaction of the Governor mentioned in clause (1), in relation to his power to promulgate Ordinances during recess of State Legislature, shall be final and conclusive and shall not be questioned in any Court on any ground.

Section 4 has amended article 239B of the Constitution to add a new clause (4) which shall have retrospective effect. By insertion of this clause, the satisfaction of the Administrator mentioned in clause (1) in relation to his power to promulgate Ordinances during recess of Legislature of a Union territory, shall be final and conclusive and shall not be questioned in any Court on any ground.

Article 352 of the Constitution has been amended by inserting therein two new clauses (4) and (5) which shall have retrospective effect. By virtue of clause (4), the power of the President to declare Emergency shall include the power to issue different Proclamations on different grounds, such as war or external aggression or internal disturbance, whether or not there is a Proclamation already issued under clause (1) and such Proclamation is in operation. Under clause (5), the satisfaction of the President mentioned in clause (1) and clause (3) shall be final and conclusive and shall not be questioned in any Court on any ground. (Section 5)

Article 356 of the Constitution has been amended by inserting a new clause (5) which shall have retrospective effect. By this insertion, the satisfaction of the President mentioned in clause (1) as regards assumption to himself of the functions of the Government of a State if the Government in the State cannot be carried on in accordance with the provisions of the Constitution, shall be final and conclusive and shall not be questioned in any Court on any ground. (Section 6)

Section 7 of the Act has amended article 359 of the Constitution by inserting therein a new clause (1A) which shall have retrospective effect. Clause (1A) states that while an order made by the President under clause (1) suspending enforcement of any of the rights conferred by Part III of the Constitution during emergencies, is in operation, nothing in that Part shall restrict the power of the State to make any law or to take any executive action which the State would but for the provisions contained in Part III be competent to make or to take. It

further states that any law so made shall, to the extent of incompetency, cease to have effect as soon as the Presidential order ceases to operate, except as respect things done or omitted to be done before the law so ceases to have effect.

Section 8 has amended with retrospective effect article 360 of the Constitution. A new clause (5) has been inserted in the article. By virtue of this clause, the satisfaction of the President mentioned in clause (1) pertaining to the declaration of Financial Emergency shall be final and conclusive and shall not be justiciable on any ground in any Court.

## XXXIX

### **THE CONSTITUTION (THIRTY-NINTH AMENDMENT) ACT, 1975<sup>260</sup>**

#### *Objects and Reasons of the Bill*

Article 71 of the Constitution provides that disputes arising out of the election of the President or Vice-President shall be decided by the Supreme Court. The same article provides that matters relating to their election shall be regulated by a parliamentary law. So far as the Prime Minister and the Speaker are concerned, matters relating to their election are regulated by the provisions of the Representation of the People Act, 1951. Under this Act, the High Court has jurisdiction to try an election petition presented against either of them.

The President, the Vice-President, the Prime Minister and the Speaker are holders of high offices. The President is not answerable to a court of law for anything done, while in office, in the exercise of his

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<sup>260</sup> Bill No. 60 of 1975; Introduced as the Constitution (Fortieth Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale on 7 August 1975; Debated, Lok Sabha: 7 August 1975; Rajya Sabha: 8 August 1975; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Orissa, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh and West Bengal; President's Assent: 10 August 1975; Date of Gazette Notification: 10 August 1975; Date of Commencement: 10 August 1975.

powers. *A fortiori* matters relating to his election should not be brought before a court of law but should be entrusted to a forum other than a Court. The same reasoning applies equally to the incumbents of the offices of Vice-President, Prime Minister and Speaker. The Bill accordingly sought to provide that disputes relating to the election of the President and Vice-President shall be determined by a forum as may be determined by a Parliamentary law. Similar provisions were also proposed to be made in the case of the election to either House of Parliament or, as the case may be, to the House of the People, of a person holding the office of Prime Minister or the Speaker. The Bill proposed to render pending proceedings in respect of such election under the existing law null and void. The Bill also sought to provide that the parliamentary law creating a new forum for trial of election matters relating to the incumbents of the high offices above mentioned shall not be called in question in any Court.

Recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interests of the public was imperilled by litigation. It became necessary to have recourse to that device once again. Between 1971 and 1973 legislation was enacted for nationalising coking coal and coal mines for conserving these resources in the interests of steel industry. These enactments were brought before Courts on the ground that they were unconstitutional. So was the case of sick textile undertakings which were nationalised in 1974. To prevent smuggling of goods and diversion of foreign exchange which affected national economy, Parliament enacted legislation which again was challenged in the Supreme Court and in High Courts. These and other important and special enactments which ought to have the constitutional protection under article 31B, were proposed to be included in the Ninth Schedule. Certain State legislations relating to land reform and ceiling on agricultural land holding have already been included in the Ninth Schedule. Certain amendments made to these legislations have also been protected by the provisions of article 31B.

The Bill sought to give effect to the above objects.

#### *Legislative History*

The Constitution (Thirty-ninth Amendment) Act, 1975, when introduced in the Lok Sabha on 7 August 1975, was titled as the

Constitution (Fortieth Amendment) Act, 1975<sup>261</sup>. The Bill sought to: (i) amend article 329; (ii) substitute new article for article 71; (iii) insert new article 329A and (iv) include thirty-eight Central and State enactments in the Ninth Schedule to the Constitution.

The Bill was considered by Lok Sabha on 7 August 1975 and passed<sup>262</sup> on the same day with only formal amendments in clauses 1 and 4 replacing the word “Fortieth” by the word “Thirty-ninth”<sup>263</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 8 August 1975<sup>264</sup>.

Clauses 2, 3 and 5 of the Bill were adopted, in the original form, both by the Lok Sabha and the Rajya Sabha.

#### *Important Provisions of the Act*

Section 2 has substituted a new article for the existing article 71 of the Constitution which pertains to matters relating to or connected with the election of (a) President or Vice-President. Clause (1) of the new article empowers Parliament to make a law to regulate any matter relating to or connected with the election of a President or Vice-President. Under clause (2), all doubts and disputes concerning their election shall be inquired into and decided by such authority or body as may be provided for by or under any law referred to in clause (1). Clause (3) of the article states that the validity of any law made under clause (1) and the decision of any authority or body under such law shall not be justiciable. If the election of a person as President or Vice-President is declared void under the relevant Parliamentary law, clause (4) provides that acts done by such person in the exercise and performance of the powers and duties of the office of President or Vice-President shall not be invalidated by reason of his election being declared void.

By section 3, the provision of article 329, which bars interference by courts in electoral matters and which were *non-obstante* in character,

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<sup>261</sup> *L.S. Deb.*, 7 August 1975, c. 8.

<sup>262</sup> *Ibid.*, c. 116.

<sup>263</sup> *Ibid.*, cc. 104, 191.

<sup>264</sup> *R.S. Deb.*, 8 August 1975, c. 64.

have been subjected to the provisions of article 329A hereinafter inserted in the Constitution by section 4 of this Act.

A new article 329A has been inserted in the Constitution containing special provision as to elections to Parliament in the case of Prime Minister and Speaker. Clause (1) of article 329A states that the election to either House of Parliament of a person holding the office of Prime Minister at the time of such election or who is appointed as Prime Minister after such election, shall not be called in question except before such authority [not being such authority as is referred to in clause (b) of article 329] or body as may be provided under any law made by Parliament. Similar provision is contained in this clause as regards the election to the House of the People of a person who holds the office of Speaker of that House at the time of such election or who is chosen as the Speaker for that House after such election. The provisions of clause (1) have been made subject to the provisions of Chapter II of Part V [except article 102(1)(e)]. Clause (2) of article 329A provides that the validity of any law made by Parliament, as is referred to in clause (1) above, and the decision of any authority or body under such law shall not be justiciable in any Court. Clause (3) states that where an election petition under article 329(b) in respect of the election of a person to either House of Parliament is pending, such election petition shall abate upon such person being appointed as Prime Minister or being chosen to the office of the Speaker. It further states that such election may, however, be called in question under any such law made by Parliament, as is referred to in clause (1). According to clause (4), an election of a person mentioned in clause (1) shall continue to be valid notwithstanding any order of a Court or a law made by Parliament to the contrary before the commencement of the present Amendment Act. Clause (5) provides for the disposal of any appeal or cross appeal against an order of any Court, as is referred to in clause (4), which is pending immediately before the commencement of the present Amendment Act. Such an appeal shall be disposed of in conformity with the provisions of clause (4). By virtue of clause (6), the provisions of article 329A shall have effect notwithstanding anything contained in the Constitution. (Section 4)

Section 5 has amended the Ninth Schedule to the Constitution by inserting therein 38 new entries, *i.e.* Entry 87 to Entry 124.

**XL****THE CONSTITUTION (FORTIETH AMENDMENT)  
ACT, 1976<sup>265</sup>***Objects and Reasons of the Bill*

Under article 297 of the Constitution, all lands, minerals and other things of value underlying the ocean within the territorial waters or the continental shelf of India shall vest in the Union and be held for the purposes of the Union. India has sovereign rights over the resources of the exclusive economic zone and is entitled to exercise jurisdiction in respect of certain other matters. The Bill thus proposed to amend article 297 of the Constitution so as to provide that all lands minerals and other things of value underlying the ocean within the exclusive economic zone of India and 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. Till now, the limits of territorial waters and the continental shelf were determined by Proclamation issued by the President. After the proposed amendment, the limits of the territorial waters, the continental shelf, the exclusive economic zone and the maritime zones of India shall be as specified from time-to-time by or under law made by Parliament.

Recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interest of the public was imperilled by litigation. Certain State legislations relating to land reforms and ceiling on agricultural land holdings are already included in the Ninth Schedule. Certain amendments made to these legislations also required protection of the provisions of article 31B in as much as in many cases such enactments had been challenged in Courts and Courts had granted interim reliefs which hampered the implementation of the national land reform policy.

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<sup>265</sup> Bill No. 60 of 1976; Introduced as the Constitution (Forty-second Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale on 21 May 1976; Debated, Lok Sabha: 25 May 1976; Rajya Sabha: 27 May 1976; President's Assent: 27 May 1976; Date of Gazette Notification: 27 May 1976; Date of Commencement: 27 May 1976.

Besides these Acts relating to land reforms, certain State enactments relating to private forests required protection of article 31B as these enactments were progressive and beneficial pieces of legislation intended to end the monopoly of vested interests and forest contractors. Some of such legislations had been challenged in Courts and as the Courts had granted interim reliefs staying the operation of these enactments, the State Government had not been able to implement these legislations.

Certain Central laws like the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, the Urban Land (Ceiling and Regulation) Act, 1976, the Essential Commodities Act, 1955, and certain provisions of the Motor Vehicles Act, 1939 required protection of article 31B. If these legislations were allowed to be challenged in courts of law thereby delaying the implementation of these laws, the very purpose of enacting these laws would have been frustrated and the national economy might have been severely affected. These and other important and special enactments which, it was considered necessary, ought to have the constitutional protection under the Ninth Schedule.

The Bill sought to give effect to the above objects.

#### *Legislative History*

The Constitution (Fortieth Amendment) Act, 1976, when introduced in the Lok Sabha on 21 May 1976, was titled as the Constitution (Forty-Second Amendment) Bill, 1976<sup>266</sup>. The Bill sought to: (i) substitute a new article for article 297 and (ii) insert 64 new entries, i.e. 125 to 188 in the Ninth Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 25 May 1976 and passed on the same day with only a formal amendment in clause 1, changing the short-title to “The Constitution (Fortieth Amendment) Act, 1976”<sup>267</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 27 May 1976<sup>268</sup>.

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<sup>266</sup> L.S. Deb., 21 May 1976, cc. 7-8.

<sup>267</sup> Ibid., 25 May 1976, cc. 179-186.

<sup>268</sup> R.S. Deb., 27 May 1976, cc. 241-246.

Clauses 2 and 3 of the Bill were adopted in the original form by both the Lok Sabha and the Rajya Sabha.

*Important Provisions of the Act*

Article 297 of the Constitution has been substituted by a new article. The new article provides that all lands, minerals and other things of value underlying the ocean within the territorial waters or continental shelf or the exclusive economic zone, and all other resources of the exclusive economic zone shall vest in the Union and be held for the purposes of the Union. 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 by any law made by Parliament. (Section 2)

Section 3 amended the Ninth Schedule to the Constitution by adding therein 64 new entries, *i.e.* Entry 125 to Entry 188.

## XLI

### **THE CONSTITUTION (FORTY-FIRST AMENDMENT) ACT, 1976<sup>269</sup>**

*Objects and Reasons of the Bill*

Article 316(2) of the Constitution provided that the Chairman and members of a State Public Sector Service Commission or Joint Commission shall retire at 60 or hold office for a term of six years from the date on which they entered service, whichever was earlier. This was the position when the Constitution came into force. Subsequently, while the age of retirement of the High Court Judges was raised to 62, that of the Chairman and the members of the State Public Service Commissions remained unchanged.

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<sup>269</sup> Bill No. 85 of 1976; Introduced as the Constitution (Forty-third Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Home Affairs, Department of Personnel and Administrative Reforms and Department of Parliamentary Affairs, Shri Om Mehta on 26 August 1976; Debated, Lok Sabha: 30 August 1976; Rajya Sabha: 1 September 1976; President's Assent: 7 September 1976; Date of Gazette Notification: 9 September 1976; Date of Commencement: 7 September 1976.

The same article provides that one-half of the members of every Public Service Commission shall be employees of the Government of India or the Government of a State. The age of retirement of Government employees was 55 originally but was later raised to 58 in the case of All-India Services, Central Government servants and the Government servants of several States. Membership of the Commission was no attraction to them, as they would have only two years to serve on the Commission. This position was not desirable from the point of view of the efficient functioning of the Commission.

Academicians like University Professors are eligible for appointment to the State Public Service Commissions. The age of retirement of University Professors had been raised to 60. It would not be attractive for these academicians to serve on a Public Service Commission if the age of retirement remained sixty. The Chairman/members of a State Public Service Commission are forbidden to serve under the Government of India or a State Government after retirement. Consequently, no eminent academician would be eager to accept appointment on the Commission unless the age of retirement was raised to 62.

The Bill proposed to raise the age of retirement of the Chairman and members of the State Public Service Commissions to 62.

#### *Legislative History*

The Constitution (Forty-first Amendment) Act, 1976, when introduced in the Lok Sabha on 26 August 1976, was titled as the Constitution (Forty-third Amendment) Bill, 1976<sup>270</sup>. The Bill sought to amend article 316 of the Constitution.

The Bill was considered by the Lok Sabha on 30 August 1976 and passed<sup>271</sup> on the same day with a formal amendment replacing the word “Forty-third” by the word “Forty-first” in clause 1. The Bill, as passed by the Lok Sabha, was considered and passed<sup>272</sup> by the Rajya Sabha on 1 September 1976.

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<sup>270</sup> *L.S. Deb.*, 26 August 1976, c. 170.

<sup>271</sup> *Ibid.*, 30 August 1976, cc. 250-260.

<sup>272</sup> *R.S. Deb.*, 1 September 1976, c. 71.

*Important Provisions of the Act*

Article 316(2) of the Constitution has been amended to raise the age of retirement of the Chairman and members of the State Public Service Commissions from 60 to 62 years. (Section 2)

## XLII

### **THE CONSTITUTION (FORTY-SECOND AMENDMENT) ACT, 1976<sup>273</sup>**

*Objects and Reasons of the Bill*

A Constitution to be living must be growing. If the impediments to the growth of the Constitution are not removed, the Constitution will suffer a virtual atrophy. The question of amending the Constitution for removing the difficulties for achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity, had been engaging the active attention of Government and the public for some years.

The democratic institutions provided in the Constitution are basically sound and the path for progress does not lie in denigrating any of these institutions. However, there could be no denial that these institutions had been subjected to considerable stresses and strains, and that vested interests had been trying to promote their selfish ends to the great detriment of public good.

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<sup>273</sup> Bill No. 91 of 1976; Introduced as the Constitution (Forty-fourth Amendment) Bill, 1976 in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale on 1 September 1976; Debated, Lok Sabha: 25, 26, 27, 28, 29, 30 October and 1 and 2 November 1976; Rajya Sabha: 4, 5, 8, 9, 10 and 11 November 1976; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh and West Bengal; President's Assent: 18 December 1976; Date of Gazette Notification: 18 December 1976; Date of Commencement: Sections 2 to 5, 7 to 17, 20, 28 to 30, 33, 36, 43 to 53, 55 to 57 and 59 came into force on 3 January 1977; Sections 6, 23 to 26, 37 to 42, 45 and 58 came into force on 1 February 1977; and Section 27 came into force on 1 April 1977. Sections 58 and 59 were, however, omitted by the Constitution (Fifty-fourth Amendment) Act, 1978.

It was, therefore, considered necessary to amend the Constitution to spell out expressly the high ideals of socialism, secularism and the integrity of the nation, to make the Directive Principles more comprehensive and give them precedence over those Fundamental Rights which had been relied upon to frustrate socio-economic reforms for implementing the Directive Principles. The Bill proposed to specify the Fundamental Duties of the citizens and make special provisions for dealing with anti-national activities of individuals and associations.

Parliament and the State Legislatures embody the will of the people and the essence of democracy is that the will of the people should prevail. Even though article 368 of the Constitution was clear and categoric with regard to the all-inclusive nature of the amending power, it was considered necessary to put the matter beyond doubt. The Bill proposed to strengthen the presumption in favour of the constitutionality of legislation enacted by Parliament and State Legislatures by providing for a requirement as to the minimum number of Judges for determining questions as to the constitutionality of laws and for a special majority of not less than two-thirds for declaring any law to be constitutionally invalid. It was also proposed to take away the jurisdiction of High Courts with regard to determination of constitutional validity of Central laws and confer exclusive jurisdiction in this behalf on the Supreme Court so as to avoid multiplicity of proceedings with regard to validity of the same Central law in different High Courts and the consequent possibility of the Central law being valid in one State and invalid in another State.

To reduce the mounting arrears in High Courts and to secure the speedy disposal of service matters, revenue matters and certain other matters of special importance in the context of the socio-economic development and progress, it was considered expedient to provide for administrative and other tribunals for dealing with such matters while preserving the jurisdiction of the Supreme Court in regard to such matters under article 136 of the Constitution. It was also considered necessary to make certain modifications in the writ jurisdiction of the High Courts under article 226.

The Bill sought to achieve the above objects and make certain other amendments which had become necessary in the light of the working of the Constitution.

*Legislative History*

The Constitution (Forty-second Amendment) Act, 1976, when introduced in Lok Sabha on 1 September 1976, was titled as the Constitution (Forty-fourth Amendment) Bill, 1976<sup>274</sup>. The Bill sought to: (i) amend the Preamble and articles 31C, 39, 55, 74, 77, 81, 82, 83, 100, 102, 105, 118, 145, 166, 170, 172, 189, 191, 194, 208, 217, 225, 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368 and 371F and the Seventh Schedule; (ii) substitute new articles for articles 103, 150, 192 and 226 and (iii) insert new Parts IVA and XIVA and articles 31D, 32A, 39A, 43A, 48A, 131A, 139A, 144A, 226A, 228A and 257A in the Constitution.

The Bill was considered by the Lok Sabha on 28, 29 and 30 October and 1 and 2 November 1976 and, as amended, passed<sup>275</sup> on 2 November 1976. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 4, 5, 8, 9 and 10 November and passed on 11 November 1976<sup>276</sup>.

Clause 1 of the Bill, as introduced in the Lok Sabha, was adopted<sup>277</sup> by both the Houses with a formal amendment replacing the word “Forty-fourth” by the word “Forty-second” in the short title. Similar amendment was effected<sup>278</sup> in clause 5 of the Bill which sought to insert new article 31D in the Constitution. Clause 5, as amended by the Lok Sabha, was adopted<sup>279</sup> by the Rajya Sabha on 10 November 1976. Clause 29 which sought to amend article 170 of the Constitution relating to composition of the Legislative Assemblies, was adopted<sup>280</sup> by the Lok Sabha on 1 November 1976 with a verbal amendment to the effect that at the beginning of sub-clause (a) the words, brackets and figure “in clause (2)” be added. The clause, as amended, was adopted by the Rajya Sabha on 10 November 1976<sup>281</sup>. Clause 51 of the Bill, as

<sup>274</sup> *L.S. Deb.*, 1 September 1976, c. 40.

<sup>275</sup> *Ibid.*, 2 November 1976, cc. 15, 201.

<sup>276</sup> *R.S. Deb.*, 11 November 1976, cc. 88-93.

<sup>277</sup> *L.S. Deb.*, 1 November 1976, cc. 374-383; *R.S. Deb.*, 10 November 1976, cc. 224-230.

<sup>278</sup> *L.S. Deb.*, 28 October 1976, cc. 222-231.

<sup>279</sup> *R.S. Deb.*, 10 November 1976, cc. 179-184.

<sup>280</sup> *L.S. Deb.*, 1 November 1976, cc. 237-249.

<sup>281</sup> *R.S. Deb.*, 10 November 1976, c. 224

introduced in the Lok Sabha, was also adopted<sup>282</sup> with a verbal amendment replacing the words “shall apply to any law” by the words “shall apply also to any law” in sub-clause (2) thereof. The clause, as amended, was adopted by the Rajya Sabha on 10 November 1976<sup>283</sup>.

Clauses 2 to 4, 6 to 16, 18 to 20, 22 to 28, 31 to 33, 35 to 41, 43 to 50 and 56 to 59 were adopted in the original form. The remaining clauses, which underwent certain changes, were considered hereinafter in the context of the relevant articles of the Constitution which were sought to be amended, inserted or substituted.

#### *Amendment of Article 83*

Clause 17(1) of the Bill, as introduced in the Lok Sabha, sought to raise the term of the House of the People from five years to six years by an amendment to clause (2) of article 83 of the Constitution. The proposed clause 17(2) read as under:

(2) The amendments made by sub-section (1) shall apply to the House of the People in existence on the date of coming into force of this section.

In the aforesaid clause an amendment moved by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale, in the Lok Sabha seeking replacement of the clause 17(2) by a new clause, was accepted<sup>284</sup>. The new clause 17(2) read as under:

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

The clause, as amended by the Lok Sabha, was adopted by Rajya Sabha on 10 November 1976<sup>285</sup>.

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<sup>282</sup> L.S. Deb., 1 November 1976, c. 311.

<sup>283</sup> R.S. Deb., 10 November 1976, cc. 219-224.

<sup>284</sup> L.S. Deb., 1 November 1976, c. 210.

<sup>285</sup> R.S. Deb., 10 November 1976, c. 189.

*Amendment of Article 105*

Clause 21 of the Bill, as introduced in the Lok Sabha, sought to substitute the following new clause for clause (3) of article 105 of the Constitution:

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and committees of each House shall be such as may, from time to time, be evolved by such House of Parliament.

During consideration of the clause by the Lok Sabha, the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale, moved an amendment to the effect that the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House, shall be those of that House, and of its members and Committees, at the commencement of section 21 of the Constitution (Forty-second Amendment) Act, 1976, and as may be evolved by such House of Parliament from time to time. The clause, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 10 November 1976, respectively<sup>286</sup>.

*Amendment of Article 172*

Clause 30(1) of the Bill, as introduced in the Lok Sabha, sought to amend article 172(1) of the Constitution to raise the term of the Legislative Assembly of a State from five years to six years. An amendment moved by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale, in the Lok Sabha seeking replacement of the following clause 30(2) was accepted by the House on 1 November 1976<sup>287</sup>:

(2) The amendments made by sub-section (1) shall apply to every Legislative Assembly in existence on the date of coming into force of this section.

The amendment was moved with a view to incorporate in the new sub-clause a clarification regarding applicability of amendments to

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<sup>286</sup> L.S. Deb., 1 November 1976, cc. 237-249; R.S. Deb., 10 November 1976, c. 224.

<sup>287</sup> L.S. Deb., 1 November 1976, c. 234.

article 172(1) without prejudice to the power of Parliament with respect to the extension of the duration of the Legislative Assembly under the proviso to clause (1) of the article. The clause, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 10 November 1976<sup>288</sup>.

*Amendment of Article 194*

Clause 34 of the Bill, as introduced in the Lok Sabha, sought to substitute the following new clause for clause (3) of article 194 of the Constitution:

(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 evolved by such House.

A Government amendment to the proposed clause was moved in the Lok Sabha to provide that such powers, etc., 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 Legislature of a State, so far as may be, in accordance with those of the House of People, and of its members and committees where such House is the Legislative Assembly and in accordance with those of the Council of State and of its members and committees where such House is the Legislative Council. The clause, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 10 November 1976, respectively<sup>289</sup>.

*Insertion of new Article 228A*

Clause 42 of the Bill, as introduced in the Lok Sabha, sought to insert a new article 228A in the Constitution to provide for disposal by the High Courts of questions relating to the constitutional validity of State laws. The Government amendments moved to the aforesaid clause in the Lok Sabha were to the effect that in new article 228A (2) for the words “determine questions as to the constitutional validity of any

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<sup>288</sup> R.S. Deb., 10 November 1976, cc. 189-194.

<sup>289</sup> L.S. Deb., 1 November 1976, cc. 237-249; R.S. Deb., 10 November 1976, cc. 219-224.

State law, the words “determine all questions relating to the constitutional validity of any State law” be substituted and after the words, “the Judges of the High Court” occurring in clause (4)(b) of the new article, the words, “sitting for the purpose” be inserted. The clause, as amended, was adopted both by the Lok Sabha and the Rajya Sabha on 1 and 10 November 1976, respectively<sup>290</sup>.

*Amendment of Article 358*

Clause 52 of the Bill, as introduced in the Lok Sabha, sought to add a proviso to article 358 of the Constitution relating to suspension of provisions of article 19 during a Proclamation of Emergency. An amendment to the proposed proviso moved by Shri C.M. Stephen in the Lok Sabha on 1 November 1976<sup>291</sup> seeking omission of the words “specified in the First Schedule” occurring after the words “in any State or Union territory” was accepted<sup>292</sup> by the House on the same day. The clause, as amended, was adopted by the Rajya Sabha on 10 November 1976<sup>293</sup>.

*Amendment of Article 359*

Clause 53 of the Bill, as introduced in the Lok Sabha, sought to add proviso to each clause (1A) and clause (2) to article 359 of the Constitution relating to suspension of the enforcement of the rights conferred by Part-III during Proclamation of Emergency. During consideration of the Bill on 1 November 1976, Shri C.M. Stephen moved an amendment to the proposed proviso to clause (1A) to article 359 to omit the words “specified in the First Schedule” occurring after the words “in any State or Union territory”. The amendment was accepted and adopted by the House on 1 November 1976<sup>294</sup>. The clause, as amended, was adopted by the Rajya Sabha on 10 November 1976<sup>295</sup>.

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<sup>290</sup> *Ibid.*

<sup>291</sup> *L.S. Deb.*, 1 November 1976, c. 150.

<sup>292</sup> *Ibid.*, c. 311.

<sup>293</sup> *R.S Deb.*, 10 November 1976, cc. 219-224.

<sup>294</sup> *L.S. Deb.*, 1 November 1976, c. 318.

<sup>295</sup> *R.S. Deb.*, 10 November 1976, cc. 204-209.

*Amendment of Article 366*

Clause 54 of the Bill sought to insert two new clauses (4A) and (26A) in article 366 of the Constitution with a view to define the expressions “Central law” and “State law” as used in the Constitution. During consideration of the clause by the Lok Sabha, two amendments moved by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale, seeking replacement of the proposed clause (4A) and insertion of new sub-clause (f) in clause (26A) of article 366, were accepted and adopted by the House on 1 November 1976<sup>296</sup>. The amendments moved were to the effect that: (i) for the original clause, namely (4A) “Central law” means any law other than a “State law”, the following be substituted by (4A) “Central law” means any law other than a State law but does not include any amendment of this Constitution made under article 368; and (ii) after sub-clause (e) to new clause (26A) the following be added in article 366: “(f) any notification, order, scheme, rule, regulation or bye-law or any other instrument having the force of law, not falling under sub-clause (e) and made by a State Government or the administrator of a Union territory or an officer or authority subordinate to such Government or administrator.”

The clause, as amended, was adopted by the Rajya Sabha on 10 November 1976<sup>297</sup>.

*Amendment of Article 368*

Clause 55 of the Bill, as introduced in the Lok Sabha, sought to insert a new clause (4) in article 368 of the Constitution relating to power of Parliament to amend the Constitution and procedure therefor. Which read as under:

55. In article 368 of the Constitution, after clause (3), the following clause shall be inserted, namely:

(4) No amendment of the 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

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<sup>296</sup> L.S. Deb., 1 November 1976, cc. 326-334.

<sup>297</sup> R.S. Deb., 10 November 1976, cc. 219-224.

Constitution (Forty-fourth Amendment)\* Act, 1976] shall be called in question in any Court except on the ground that it has not been made in accordance with the procedure laid down by this article.

In the aforesaid clause 55, an amendment moved by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale, in the Lok Sabha on 1 November 1976<sup>298</sup>, was accepted. The amendment was moved with a view to provide that no constitutional amendment will be called in question in any Court on any ground and to declare that there will be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of the Constitution.

Clause 55, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 1 and 10 November 1976, respectively<sup>299</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Different dates may be appointed for different provisions of the Act. (Section 1)

The Preamble to the Constitution has been amended so as to provide that for the words “SOVEREIGN DEMOCRATIC REPUBLIC”, the words “SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC” be substituted; and for the words “unity of the Nation”, the words “unity and integrity of the Nation” be substituted. (Section 2)

The scope of article 31C—which hitherto saved only such laws which gave effect to the Directive Principles of State Policy specified in article 39(b) and 39(c) towards securing: (i) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; and (ii) that the operation of the

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\* Enacted as the Constitution (Forty-second Amendment) Act.

<sup>298</sup> L.S. Deb., 1 December 1976, cc. 159-160.

<sup>299</sup> Ibid., cc. 335-342; R.S. Deb., 10 November 1976, cc. 219-224.

economic system does not result in the concentration of wealth and means of production to the common detriment—has been widened so as to cover all or any of the Directive Principles laid down in Part IV of the Constitution. (Section 4)

Newly inserted article 31D provided for saving of laws in respect of anti-national activities and the formation of anti-national associations. “Anti-national activity” means by action by an individual or association:

- (i) which is intended, or which supports any claim, to bring about on any ground whatsoever, the cession of a part of the territory of India or which incites any individual or association to bring about such cession or secession;
- (ii) which disclaims, questions, threatens, disrupts or is intended to threaten or disrupt the sovereignty and integrity of India or the security of the State or the unity of the nation;
- (iii) which is intended, or which is part of a scheme which is intended to overthrow by force of the Government as by law established;
- (iv) which is intended, or which is part of a scheme which is intended to create internal disturbance or the disruption of public services;
- (v) which is intended, or which is part of a scheme which is intended to threaten or disrupt harmony between different religious, racial, language or regional groups or castes or communities.

“Anti-national association” means an association:

- (i) which has for its object any anti-national activity;
- (ii) which encourages or aids persons to undertake or engage in any anti-national activity;
- (iii) the members whereof undertake or engage in any anti-national activity.

The law providing for prevention or prohibition of anti-national activities or anti-national association made by virtue of the new article 31D, shall not be deemed to be void on the ground that it takes away or abridges any of the Fundamental Rights conferred by article 14

(relating to right to equality before law), 19 (relating to rights regarding freedoms of speech and expression; peaceful assembly and to form associations; movement, residence and settlement, property; and to practice profession, occupation, trade or business) and 31 (relating to compulsory acquisition of property). (Section 5)

Insertion of a new article 32A provided that the Supreme Court will have no jurisdiction to decide the constitutional validity of a State law in any writ proceedings under article 32 unless the validity of a Central law is also in issue in such proceedings. (Section 6)

Section 7 has substituted clause (f) in article 39 providing that the 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. New directives have been added by insertion of new articles 39A, 43A and 48A which enjoin upon the State to endeavour to provide for equal justice and free legal aid to citizens with economic or other disabilities, participation of workers in the management of industries, and protection and improvement of environment and safeguarding of forests and wild life, respectively. (Sections 7 to 10)

Newly inserted Part IVA containing article 51A has listed Fundamental Duties of citizens. It has provided that 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 the 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 country's 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 enquiry 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. (Section 11)

Article 74(1) has been amended to explicitly provide that the President shall act in accordance with the advice of the Council of Ministers. (Section 13)

Articles 77 and 166 relating to the conduct of business of the Government of India and the Government of a State respectively, have been amended to provide that no Court or other authority shall be entitled to require the production of any rules framed for the transaction of Government business. (Sections 14 and 28)

The allocation of seats in the House of the People to the States and the strength of State Legislative Assemblies as also the extent of Parliamentary and Assembly constituencies and the reservation of seats for Scheduled Castes and Scheduled Tribes as determined on the basis of the 1971 census have been frozen till the census taken after the year 2000. The relevant articles, namely, article 55 relating to the manner of election of the President, articles 81 and 82 relating to the House of the People, article 170 relating to the Legislative Assemblies of States, and articles 330 and 332 relating to reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of States, have accordingly been amended. In articles 82 and 170 as amended, provision is also made to the effect that whenever, after a census, delimitation is undertaken, this shall take effect from the date to be specified by the President. (Sections 12, 15, 16, 29 and 47)

Article 83 relating to the duration of the Houses of Parliament and article 172 relating to the duration of the State Legislature were amended to change the duration of the House of the People and the State Legislative Assemblies from five to six years. A consequential amendment was also made in article 371F (c) relating to Sikkim Legislative Assembly. (Sections 17, 30 and 56)

The provisions relating to quorum of the two Houses have been omitted from article 100 and from article 189 relating to the Houses of State Legislatures. Articles 118 and 208 relating to rules of procedure, respectively, in relation to the Parliament and the State Legislatures, have been amended to provide for quorum for a meeting of the House by means of rules. (Sections 18, 22, 31 and 35)

Article 102(1)(a), providing that a person was to be disqualified for membership of either House of Parliament if he held an office of profit under the Government of India or the Government of any State other than an office declared by Parliamentary law not to disqualify its holder, has been amended to provide that a person will be so disqualified 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. Similar provision has been made in article 191(1)(a) relating to State Legislatures but the power to specify the disqualifying offices shall vest in Parliament instead of the State Legislature. (Sections 19 and 32)

The newly substituted article 103 provides that the question whether a member of Parliament has become subject to any disqualification mentioned in article 102 as also the question whether a person is disqualified for membership on the ground of being found guilty of corrupt practice, including the question as to the period of disqualification or as to the removal or the reduction of the period of such disqualification, shall be decided by the President after consulting the Election Commission which is empowered to hold an inquiry in this behalf. A similar provision for decision on question as to the disqualification of members of State Legislatures has been made by substituting article 192 with new article. (Sections 20 and 33)

Article 105, providing that in respects other than those specified in the article (freedom of speech in Parliament subject to the provisions

of the Constitution and to the rules and standing orders regulating the procedure of Parliament, and immunity from legal action in respect of anything said or any vote given by a member in Parliament or any committee thereof), the powers, privileges and immunities of each House of Parliament and of its members and committees until defined by law were to be those of the British House of Commons and of its members and committees at the commencement of the Constitution, has been amended to provide that the powers, privileges and immunities aforesaid shall be such as are of the Houses at the commencement of this amending provision and as may be evolved by such House from time-to-time. A similar amendment has been made in article 194, which relates to State Legislatures. (Sections 21 and 34)

The existing scheme under which the constitutional validity of a Central law could be questioned either before the Supreme Court or the High Court has been altered. Newly inserted article 131A has vested the Supreme Court with exclusive jurisdiction as regards determination of the constitutional validity of Central laws. Also, where the constitutional validity of both a Central law and a State law is involved, the Supreme Court alone shall have the jurisdiction to determine the constitutional validity of such laws. (Section 23)

Newly inserted article 144A has made special provisions as to the disposal by the Supreme Court of questions relating to validity of laws. The minimum number of Judges of Supreme Court for determining any question as to the constitutional validity of a Central law or a State law shall be seven. A Central law or a State law shall not be declared to be constitutionally invalid unless not less than two-thirds of the Judges hearing the case hold the same to be constitutionally invalid. (Section 25)

Newly inserted article 139A has provided that where cases involving the same or substantially the same questions of law of general importance are pending before the Supreme Court and one or more High Courts, on an application made by the Attorney-General the Supreme Court may withdraw the cases before the High Court or High Courts to itself for disposal. Further, under the new article 139A, the Supreme Court is empowered to transfer any case, appeal or other proceedings from one High Court to another if it is expedient to meet the ends of justice. (Section 24)

Article 150 has been amended to confer power on the President to prescribe the form in which the accounts of the Union and the States are to be maintained. The President shall exercise this power after consultation with the Comptroller and Auditor-General of India. (Section 27)

Article 217, relating to the appointment and conditions of the office of a Judge of a High Court, has been amended to provide that a distinguished jurist shall also be eligible for appointment as a Judge of a High Court. Under the article as amended, for the purpose of computing the period of ten years during which a person has been an advocate, any period during which the person has held judicial office or the office of a member of a tribunal or any post requiring special knowledge of law after he became an advocate shall be taken into account. (Section 36)

A new article had been substituted for article 226, relating to the power of the High Courts to issue writs. While the High Courts shall continue to enjoy their power to enforce Fundamental Rights, their jurisdiction in other cases was restricted to: (a) cases where there is a contravention of a statutory provision causing substantial injury to the petitioner and (b) cases where there is an illegality resulting in substantial failure of justice. And, in either case, the petitioner shall have to satisfy the Court that he has no other remedy. Further, in the substituted article 226, provision is made that the High Court shall not issue any interim order ordinarily except upon notice to the other party and after giving the other party an opportunity to be heard. An exception has been made in cases where the loss or damage to the petitioner cannot be compensated in money. But the High Court shall have no power to grant an interim order in any case where the effect of such an order is to delay any inquiry into a matter of public importance or any investigation or inquiry into an offence punishable with imprisonment or any action for the execution of any work of project of public utility, or the acquisition of any property for such execution by the Government or any corporation owned or controlled by the Government. (Section 38)

Pending petitions under article 226 shall be dealt with in accordance with the provisions of the article as substituted. The right of the petitioner to seek relief under any other law shall, however, not be affected. In computing the period of limitation, the period during which the proceedings relating to the petition were pending in the High Court, shall be excluded. (Section 58)

Newly inserted article 226A provides that the constitutional validity of a Central law cannot be considered by the High Court in proceedings under article 226. (Section 39)

Article 227, relating to the High Court's power of superintendence over courts and tribunals, has been amended to omit the reference to tribunals therein and to make it clear that nothing in the article shall be construed as giving to a High Court any jurisdiction to question any judgment of any inferior court which is not otherwise subject to appeal or revision. (Section 40)

Newly inserted article 228A has provided for disposal by the High Court of questions relating to the constitutional validity of State laws. Except where questions as to constitutional validity of both Central and State laws are involved, the High Court may determine questions as to the constitutional validity of State laws. The new article 228A also fixed the minimum number of Judges for determining any question as to the constitutional validity of a State law. The minimum number will be five but where a High Court consists of less than five Judges, all the Judges of the High Court shall determine such a question. Any Judge disqualified by reasons of pecuniary or personal bias shall be excluded in computing the number of Judges of a High Court. Where the number of Judges hearing a question as to the constitutional validity is not less than five, the decision as to constitutional invalidity shall be by a majority of not less than two-thirds and where the number of Judges is less than five, the law in question cannot be declared to be constitutionally invalid unless all the judges hold it to be constitutionally invalid. (Section 42)

Article 311 relating to dismissal, removal and reduction in rank of civil servants has been amended to provide that it shall not be necessary

to give the concerned civil servant any opportunity of making representation at the stage of awarding punishment. (Section 44)

Article 312, relating to All-India Services, has been amended to provide for the creation of All-India Judicial Service by a Parliamentary law. Such service shall not include any post inferior to that of a district Judge. The aforesaid law may make necessary provisions for the amendment of the constitutional provisions relating to subordinate courts for giving effect to the provisions of that law. (Section 45)

New Part XIVA, consisting of articles 323A and 323B, dealing with tribunals has been inserted. Article 323A provides for the setting up of administrative tribunals by a Parliamentary law for determining disputes and complaints relating to the recruitment and conditions of service of Union Government servants and servants of a State including the employees of any local or other authority within the territory of India or under the control of the Government of India or of a corporation owned or controlled by the Government. Such law shall *inter alia* provide for the constitution of a tribunal for the Union and for a separate tribunal for each State or for two or more States and define the jurisdiction and powers of such tribunals. Article 323B provides for the creation by the appropriate Legislature, of tribunals for the determination of disputes, complaints and offences in respect of the following matters:

- (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 of any estate 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 articles 329 and 329A (concerning the validity

of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies and the elections in the case of the Prime Minister and the Speaker of the House of the People);

- (g) production, procurement, supply and distribution of food-stuffs (including oilseeds and oils) and such other goods as may be notified by the President to be essential goods for the purpose of this article and control of prices of such goods; and
- (h) offences against laws with respect to any of the matters aforesaid and fees in respect of any of those matters.

Any administrative or other tribunal shall, however, be subject to the jurisdiction of the Supreme Court by the Court's grant of special leave to appeal under article 136. (Section 46)

Newly inserted article 257A empowered the Central Government to deploy armed forces or other forces of the Union for dealing with any grave situation of law and order in any State. Such force shall act in accordance with the directions of the Central Government and shall not be subject to the control of the State Government. A provision was also made for a Parliamentary law for defining the powers, functions and liabilities of the members of such force. (Section 43)

Article 352 relating to Proclamation of Emergency has been amended. The President has been empowered to make a Proclamation of Emergency in respect of the country as a whole or a part of the country. A Proclamation issued may be varied by a subsequent Proclamation. Every such Proclamation shall be laid before each House of Parliament for approval. (Section 48)

Article 353 has been amended to provide that even where a Proclamation of Emergency is in operation only in a part of the country, the executive power of the Union to give directions and the power of Parliament to make laws with respect to any matter shall also extend to any State other than a State in which or in any part of which the Proclamation is in operation if and insofar as the security of the country or any part of it is threatened by activities in or in relation to the part of the country in which the Proclamation is in operation. (Section 49)

Article 358, relating to suspension of provisions of article 19 during Emergency, has been amended to provide that even where the Proclamation of Emergency is in operation only in any part of the country, any law may be made or any executive action may be taken under the article in relation to or in any State or Union territory if and insofar as the security of the country or any part thereof is threatened by activities in or in relation to the part of the country in which the Proclamation is in operation. (Section 52)

Article 359, which empowers the President to suspend by order the enforcement of any of the Fundamental Rights during Emergency, has been amended to provide that where the Proclamation of Emergency is in operation only in a part of the country, the order suspending the enforcement of the Fundamental Rights may be extended by the President to any other part if the security of the country or any part thereof is threatened by activities in or in relation to the part of the country in which the Proclamation is in operation. (Section 53)

Article 356 has been amended to enlarge the period of operation of Proclamation of failure of constitutional machinery in a State which has been approved by Parliament and the period for which the approved Proclamation can be renewed at a time upon a resolution of both the Houses of Parliament from six months to one year. (Section 50)

Article 357(2) has been amended to provide that any law made during the operation of the Proclamation of the failure of constitutional machinery in a State in exercise of the powers of the State Legislature by Parliament, the President or any other authority shall continue in force until altered, repealed or amended by the competent Legislature or other authority. Hitherto, such laws unless sooner repealed or re-enacted with or without modification by the appropriate Legislature were to cease to have effect on the expiration of a period of one year after the Proclamation had ceased to operate. (Section 51)

Article 368 has been amended to provide that no constitutional amendment shall be called in question in any Court on any ground. The amended article 368 also declares 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 the Constitution. (Section 55)

The Act has inserted certain new entries and amended certain entries in the Lists of the Seventh Schedule and transposed certain entries of subjects in certain entries from one List to another. In List II—State List—

- (a) Entry 1 “Public order (but not including the use of naval, military or air forces or any other armed forces of the Union)” has been amended as “Public order (but not including the use of any naval, military or air force or any other armed forces 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”.
- (2) Entry 2 “Police, including railway and village police” has been amended as “Police (including railway and village police) subject to the provisions of Entry 2A of List I”. New Entry 2A inserted by this Act in List I—Union List—is 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.”

The entries or subjects which have been transposed from List II—State List—to List III—Concurrent List—are: (1) Administration of justice, constitution and organisation of all Courts except the Supreme Court and the High Courts; (2) Education; (3) Weights and measures except establishment of standards; (4) Forests; and (5) Protection of wild animals and birds. New Entry 20A added in List III is “Population control and family planning”. Taxes on advertisements broadcast by radio and television have also, besides taxes on advertisements published in newspapers, been inserted in Entry 55 of the List II. (Section 57)

Under section 59, the President had been empowered to make, by order, necessary provisions, including any adaptation or modification of any provision of the Constitution, within two years from the date of his assent to this Act, for the purpose of removing the difficulties in giving effect to the provisions of the Constitution as amended by this Act. Every such order made by the President shall be laid before each House of Parliament.

## XLIII

### **THE CONSTITUTION (FORTY-THIRD AMENDMENT) ACT, 1977<sup>300</sup>**

#### *Objects and Reasons of the Bill*

The Constitution (Forty-second Amendment) Act, 1976 inserted various articles in the Constitution to curtail, both directly and indirectly, the jurisdiction of the Supreme Court and the High Courts to review the constitutionality of laws. Article 32A barred the Supreme Court from considering the constitutional validity of any State law in proceedings for the enforcement of Fundamental Rights unless the constitutional validity of any Central law was also in issue in such proceedings. Article 131A gave to the Supreme Court exclusive jurisdiction to decide the constitutional validity of a Central law and thus deprived the High Courts of their jurisdiction in respect of the same. Article 144A provided that the minimum number of Judges of the Supreme Court who shall sit for the purpose of determining the constitutional validity of any Central law or State law shall be seven and required a special majority of two-thirds for the invalidation of such law. Article 226A barred the High Courts from deciding the validity of any Central law and article 228A required that there should be a Bench of at least five Judges for determining the constitutional validity of any State law and prescribed a special majority for a judgment invalidating such a law.

It was considered that articles 32A, 131A and 228A cause hardship to persons living in distant parts in India. Further, article 32A would lead to multiplicity of proceedings as cases relating to the validity of

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<sup>300</sup> Bill No. 148 of 1977; Introduced as the Constitution (Forty-fourth Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan on 16 December 1977; Debated, Lok Sabha: 19 and 20 December 1977; Rajya Sabha: 23 December 1977; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura and West Bengal; President's Assent: 13 April 1978; Date of Gazette Notification: 13 April 1978; Date of Commencement: 13 April 1978.

a State law which could be disposed of by the Supreme Court itself have to be heard first by the High Court. The minimum number of Judges in every case wherein the constitutional validity of a law was involved, howsoever unsubstantial the challenge might be, resulted in valuable judicial time being lost in hearing and rejecting submissions that had no substance. The Supreme Court has in *M/s. Misrilal Jain vs. the State of Orissa and Others* (AIR 1977 S.C. 1686) expressed the hope that article 144A would engage the prompt attention of Parliament and would be amended so as to leave to the Court itself the duty to decide how large a Bench should decide any particular case. In fact, a number of cases had been held up in the Supreme Court and High Courts as a result of the afore-mentioned articles.

It was, therefore, proposed to omit articles 32A, 131A, 144A, 226A and 228A. It was also proposed to make special provisions to enable the Supreme Court and the High Courts to deal with pending cases in the same manner as if the said articles had been omitted with effect from 1 February 1977 (*viz.*, the date on which those articles were brought into force). Necessary consequential amendments to articles 145, 228 and 366 were also proposed to be made.

Article 31D confers special power on Parliament to enact certain laws in respect of anti-national activities. It was considered that these powers of Parliament to make laws for dealing with anti-national activities and anti-national associations were of a sweeping nature and capable of abuse. It was, therefore, proposed to omit article 31D.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Forty-third) Amendment Act, 1977, when introduced in the Lok Sabha on 16 December 1977, was titled as the Constitution (Forty-fourth Amendment) Bill, 1977<sup>301</sup>. The Bill sought to amend articles 145, 228 and 366, and omit articles 31D, 32A, 131A, 144A, 226A and 228A of the Constitution.

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<sup>301</sup> *L.S. Deb.*, 16 December 1977, c. 301.

The Bill was considered by the Lok Sabha on 19 and 20 December 1977 and passed<sup>302</sup> on 20 December with amendments moved<sup>303</sup> by the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan, seeking insertion of new clause 6A, re-numbered as 7, and replacement of the word “Forty-fourth” by the word “Forty-third” in clause 1. The existing clauses 7 to 10 were re-numbered as 8 to 11, respectively.

The new clause 7 read as under:

7. In article 226 of the Constitution in clause (1), the words, figures and letters “but subject to the provisions of article 131A and article 226A” shall be omitted.

The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 23 December 1977 and passed on the same day<sup>304</sup>.

#### *Important Provisions of the Act*

Article 31D of the Constitution empowering Parliament to make laws in respect of anti-national activities and anti-national associations has been omitted. (Section 2)

Article 32A of the Constitution provided that the constitutional validity of State laws shall not be considered by the Supreme Court in writ proceedings for the enforcement of the Fundamental Rights. The said article has been omitted. (Section 3)

Section 4 has omitted article 131A relating to exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws.

Article 144A provided that a Central law or a State law shall not be declared to be constitutionally invalid by the Supreme Court unless a majority of not less than two-thirds of Judges hold it to be constitutionally invalid. Article 228A laid down a similar requirement in regard to determination of constitutional validity of State laws by the High Courts. Both these articles have now been omitted. (Sections 5 and 10)

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<sup>302</sup> *Ibid.*, 20 December 1977, cc. 387-395.

<sup>303</sup> *Ibid.*, 19 December 1977, cc. 426-428.

<sup>304</sup> *R.S. Deb.*, 23 December 1977, cc. 244-248.

Article 226A, providing that the constitutional validity of Central laws shall not be considered by the High Courts in writ proceedings under article 226, has been omitted. (Section 8)

## XLIV

### THE CONSTITUTION (FORTY-FOURTH AMENDMENT) ACT, 1978<sup>305</sup>

#### *Objects and Reasons of the Bill*

Recent experience had shown that the Fundamental Rights, including those of life and liberty granted to citizens by the Constitution were capable of being taken away by a transient majority. It was, therefore, necessary to provide adequate safeguards against the recurrence of such a contingency in the future and to ensure to the people themselves an effective voice in determining the form of Government under which they were to live. This was one of the primary objects of this Bill.

It was, therefore, proposed to provide that certain changes in the Constitution which would have the effect of impairing its secular or democratic character, abridging or taking away Fundamental Rights, prejudicing or impeding free and fair elections on the basis of adult suffrage and compromising the independence of judiciary, could be made only if approved by the people of India by a majority of votes at a referendum in which at least fifty-one per cent of the electorate participate. The Bill sought to amend article 368 is to ensure this.

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<sup>305</sup> Bill No. 88 of 1978; Introduced as the Constitution (Forty-fifth Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan on 15 May 1978; Debated; Lok Sabha: 7, 8, 9, 10, 11, 12, 21, 22 and 23 August and 6 and 7 December 1978; Rajya Sabha: 28, 29, 30 and 31 August 1978; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Manipur, Nagaland, Orissa, Sikkim, Tamil Nadu and West Bengal; President's Assent: 30 April 1979; Date of Gazette Notification: 30 April 1979; Date of Commencement: Sections 2, 4 to 16, 22, 23, 25 to 29, 31 to 42, 44 and 45 came into force on 30 April 1977; Sections 17 to 21 and 30 came into force on 1 August 1979; and Sections 24 and 43 came into force on 6 September 1979.

In view of the special position sought to be given to Fundamental Rights, the right to property, amended by more than one amendment of the Constitution, would cease to be a Fundamental Right and become only a legal right. For this purpose, necessary amendments in article 19 and deletion of article 31 were proposed. It would, however, be ensured that the removal of property from the list of Fundamental Rights would not affect the right of minorities to establish and administer educational institutions of their choice.

Similarly the right of persons holding land for personal cultivation and within the ceiling limit to receive compensation at the market value would not be affected.

Property, while ceasing to be a Fundamental Right, would, however, be given express recognition as a legal right, provision being made that no person shall be deprived of his property save in accordance with law.

A Proclamation of Emergency under article 352 had virtually the effect of amending the Constitution by converting it, for the duration, into that of a Unitary State and also give it the power to suspend the rights of the citizen to move the Courts for the enforcement of Fundamental Rights—including the right to life and liberty. Adequate safeguards were, therefore, necessary to ensure that this power is properly exercised and not abused. It was, therefore, proposed that a Proclamation of Emergency can be issued only when the security of India or any part of its territory is threatened by war or external aggression or by armed rebellion. Internal disturbance not amounting to armed rebellion would not be a ground for the issue of a Proclamation.

Further, in order to ensure that a Proclamation is issued only after due consideration, the Bill sought to provide that an Emergency can be proclaimed only on the basis of written advice tendered to the President by the Cabinet. In addition, as a Proclamation of Emergency virtually has the effect of amending the Constitution, it is being provided that the Proclamation would have to be approved by the two Houses of Parliament by the same majority which is necessary to amend the Constitution and such approval would have to be given within a period of one month. Any such Proclamation would be in force only for a

period of six months and can be continued only by further resolutions passed by the same majority. The Proclamation would also cease to be in operation if a resolution disapproving the continuance of the Proclamation is passed by Lok Sabha. Ten per cent or more of the members of Lok Sabha can requisition a special meeting for considering a resolution for disapproving the Proclamation.

As a further check against the misuse of the Emergency provisions and to put the right to life and liberty on a secure footing, it would be provided that the power to suspend the right to move the Court for the enforcement of a Fundamental Right cannot be exercised in respect of the Fundamental Right to life and liberty. The right to liberty is further strengthened by the provision that a law for preventive detention cannot authorise, in any case, detention for a longer period than two months unless an Advisory Board has reported that there is sufficient cause for such detention. An additional safeguard would be provided by the requirement that the Chairman of an Advisory Board shall be a serving Judge of the appropriate High Court and that the Board shall be constituted in accordance with the recommendations of the Chief Justice of that High Court.

The Bill proposed a special provision guaranteeing the right of the media to report freely and without censorship the proceedings in Parliament and the State Legislatures. The provision with regard to the breakdown of the constitutional machinery in the States was also sought to be amended so as to provide that a Proclamation issued under article 356 would be in force only for a period of six months in the instance and that it cannot exceed one year ordinarily. However, if a Proclamation of Emergency is in operation and the Election Commission certifies that the extension of the President's rule beyond a period of one year is necessary on account of difficulties in holding elections to the Legislative Assembly of the State concerned, the period of operation of the Proclamation can be extended beyond one year. This is subject to the existing limit of three years. These changes would ensure that democratic rule is restored to a State after the minimum period which will be necessary for holding elections.

With a view to avoiding delays, it was proposed to amend articles 132, 133 and 134 and insert a new article 134A to provide that

a High Court should consider the question of granting a certificate for appeal to Supreme Court immediately after the delivery of the judgment, decree, final order or sentence concerned on the basis of an oral application by a party or, if the High Court deems fit so to do, on its own motion. Cases of special leave to appeal by Supreme Court was to be regulated exclusively by article 136.

The other amendments proposed in the Bill were mainly for removing or correcting the distortions which came into the Constitution by reason of amendments enacted during the period of the Internal Emergency.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Forty-fourth Amendment) Act, 1978, when introduced in the Lok Sabha on 15 May 1978, was titled as the Constitution (Forty-fifth Amendment) Bill, 1978<sup>306</sup>. The Bill sought to: (i) amend articles 19, 22, 30, 31A, 31C, 38, 74, 77, 83, 105, 123, 132, 133, 134, 139A, 150, 166, 172, 194, 213, 217, 225, 226, 227, 239B, 329, 352, 356, 358, 359, 360, 366, 368 and 371F and the Seventh and Ninth Schedules to the Constitution; (ii) substitute new articles for articles 71, 103 and 192; (iii) insert new articles 134A, 361A and Chapter IV in Part XIII of the Constitution and (iv) omit articles 31, 257A and 329A and Part XIV of the Constitution and sections 18, 19, 21, 22, 31, 32, 34, 35, 58 and 59 of the Constitution (Forty-second Amendment) Act, 1976.

The Bill was considered by the Lok Sabha on 7, 8, 9, 10, 11, 12, 21, 22 and 23 August and, as amended, passed on 23 August 1978<sup>307</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 28, 29, 30 and 31 August and passed with amendments on 31 August 1978<sup>308</sup>. The Bill, as amended by the Rajya Sabha, was considered by the Lok Sabha on 6 and 7 December 1978. Amendments made by the Rajya Sabha were agreed to by the Lok Sabha on

<sup>306</sup> *L.S. Deb.*, 15 May 1978, c. 262.

<sup>307</sup> *Ibid.*, 23 August 1978, cc. 108-116.

<sup>308</sup> *R.S. Deb.*, 31 August 1978, cc. 320-325.

7 December 1978<sup>309</sup>. The Bill, as amended by the amendments agreed to, was passed by the Lok Sabha on 7 December 1978<sup>310</sup>.

Clauses 1, 15 and 26 of the Bill were adopted<sup>311</sup> by the Lok Sabha on 22 August 1978 with formal amendments replacing the word “Forty-fifth” by the word “Forty-fourth”. These clauses, as amended, were adopted by the Rajya Sabha on 31 August 1978<sup>312</sup>. Clauses 2 to 14, 16 to 20, 23 to 25, 27 to 40 and 42 to 49 were adopted by the House in the original form. The remaining clauses, which underwent certain changes, are considered hereunder in the context of the relevant articles of the Constitution which were sought to be amended.

#### *Amendment of Article 139A*

Clause 21 of the Bill, as introduced in the Lok Sabha, sought to amend article 139A of the Constitution to provide that the Supreme Court may take action under the article also on its own motion or on an application by a party to any case involving the same or substantially the same question of law pending before the Supreme Court and one or more High Courts or before two or more High Courts. During the consideration of the clause by the Lok Sabha, the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan, moved an amendment seeking addition of the following proviso at the end of the clause which sought to substitute the existing clause (1) of article 139A:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of 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.

The amendment was accepted<sup>313</sup> by the House. The clause, as so amended, was adopted by the Lok Sabha and the Rajya Sabha on 23 and 31 August 1978, respectively<sup>314</sup>.

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<sup>309</sup> *L.S. Deb.*, 7 December 1978, cc. 266-323.

<sup>310</sup> *Ibid.*, cc. 324-333.

<sup>311</sup> *Ibid.*, 22 August 1978, cc. 289, 186 and 199.

<sup>312</sup> *R.S. Deb.*, 31 August 1978, cc. 315-320.

<sup>313</sup> *L.S. Deb.*, 22 August 1978, c. 198.

<sup>314</sup> *Ibid.*, 23 August 1978, cc. 63-74; *R.S. Deb.*, 31 August 1978, cc. 315-320.

*Amendment of Article 150*

Clause 22 of the Bill, as introduced in the Lok Sabha, sought to amend article 150 of the Constitution to provide that the accounts of the Union and of the States shall be kept in such form as the President may with the concurrence of the Comptroller and Auditor-General of India, prescribe. To that effect, the Bill proposed to substitute the words “after consultation with” by the words “with the concurrence of” in the said article. In the aforesaid clause, an amendment moved by Shri Narendra P. Nathwani in the Lok Sabha, was accepted on 22 August 1978<sup>315</sup>. The amendment was for the substitution of the words “on the advice of” by the words “with the concurrence of”.

Clause 22 of the Bill was adopted, in this amended form, by the Lok Sabha and the Rajya Sabha on 23 and 31 August 1978, respectively<sup>316</sup>.

*Amendment of Article 359*

Clause 41 of the Bill, as introduced in the Lok Sabha, sought to amend article 359 of the Constitution relating to suspension of the enforcement of the Fundamental Rights during a Proclamation of Emergency. During consideration of the clause by the Lok Sabha, Shri Kanwar Lal Gupta moved an amendment seeking substitution of the words “except 21” by “except 20 and 21” of the proposed clause. The amendment was accepted by the House on 22 August 1978<sup>317</sup>. The clause, as so amended, was adopted by the Lok Sabha and the Rajya Sabha on 23 and 31 August 1978, respectively<sup>318</sup>.

*Amendment of Article 31C*

During consideration of the Bill, as amended by the Lok Sabha, an amendment moved by the Minister of Law, Justice and Company

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<sup>315</sup> L.S. Deb., 22 August 1978, c. 198.

<sup>316</sup> Ibid., 23 August 1978, cc. 63-74; R.S. Deb., 31 August 1978, cc. 315-320.

<sup>317</sup> L.S. Deb., 22 August 1978, c. 235.

<sup>318</sup> Ibid., 23 August 1978, cc. 63-74; R.S. Deb., 31 August 1978, cc. 315-320.

Affairs, Shri Shanti Bhushan in the Rajya Sabha on 31 August 1978<sup>319</sup> sought to insert a new clause 7A in the Bill which read as under:

7A. In article 31C of the Constitution, for the words and figures ‘article 14, article 19 or article 31’, the words and figures ‘article 14 or article 19’ shall be substituted.

The amendment was accepted by the House. The clause, so inserted in the Bill, was adopted by the Rajya Sabha and the Lok Sabha on 31 August and 7 December 1978, respectively<sup>320</sup>.

#### *Amendment of Articles 31C, 366 and 368*

During consideration of the Bill by the Rajya Sabha on 31 August 1978, the motion for the adoption of clauses 8, 44 and 45, which sought to amend articles 31C, 366 and 368 respectively, of the Constitution, were lost<sup>321</sup> as these were not carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting. The said clauses were, therefore, omitted from the Bill. Amendments made by the Rajya Sabha were accepted and adopted by the Lok Sabha on 7 December 1978<sup>322</sup>.

#### *Omission of Part XIV-A of the Constitution*

Clause 35 of the Bill, as introduced, sought to omit Part XIV-A of the Constitution dealing with tribunals. During consideration of the Bill by the Rajya Sabha on 31 August 1978, the motion for the adoption of the said clause was lost<sup>323</sup> as it was not carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting. The clause was, therefore, omitted from the Bill. Amendment made by the Rajya Sabha was accepted and adopted by the Lok Sabha on 7 December 1978<sup>324</sup>.

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<sup>319</sup> R.S. Deb., 31 August 1978, c. 313.

<sup>320</sup> Ibid., cc. 315-320; L.S. Deb., 7 December 1978, cc. 266-275.

<sup>321</sup> R.S. Deb., 31 August 1978, cc. 150-154, 264-269 and 280-285.

<sup>322</sup> L.S. Deb., 7 December 1978, cc. 275-284, 295-304 and 304-314.

<sup>323</sup> R.S. Deb., 31 August 1978, cc. 190-195.

<sup>324</sup> L.S. Deb., 7 December 1978, cc. 285-294.

*Amendment of the Seventh Schedule*

Clause 47 of the Bill, as introduced, sought to amend the Seventh Schedule to the Constitution. During consideration of the Bill by the Rajya Sabha on 31 August 1978, amendments moved<sup>325</sup> by the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan, seeking deletion of sub-clauses b(v) and c(i) from the proposed clause 47 were adopted<sup>326</sup> by the House. But the motion for the adoption of clause 47, as amended, was lost<sup>327</sup> as it was not carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting. The said clause was, therefore, omitted from the Bill. Amendment made by the Rajya Sabha was considered and adopted by the Lok Sabha on 7 December 1978<sup>328</sup>.

Amendments inserting new clause 7A and deleting clause 3 having been adopted, the new clause 7A was re-numbered<sup>329</sup> as clause 3. The amendment deleting clause 5 having been adopted, the existing clauses 36 to 43 were<sup>330</sup> re-numbered as clauses 35 to 42. Amendments deleting clauses 44, 45 and 47 having been adopted, the existing clauses 46, 48 and 49 were re-numbered<sup>331</sup> as clauses 43, 44 and 45, respectively.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Different dates may be appointed for different provisions of the Act. (Section 1)

The Act provided that the right to property would cease to be a Fundamental Right and would only be a legal right. Sub-clause (f) of clause (1) of article 19 guaranteeing to citizens the right to acquire, hold and dispose of property and article 31 relating to compulsory

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<sup>325</sup> R.S. Deb., 31 August 1978, cc. 286-287.

<sup>326</sup> Ibid., cc. 299-303.

<sup>327</sup> Ibid., cc. 303-308.

<sup>328</sup> L.S. Deb., 7 December 1978, cc. 314-323.

<sup>329</sup> Ibid., c. 275.

<sup>330</sup> Ibid., c. 285.

<sup>331</sup> Ibid., c. 314.

acquisition of property have been omitted. Article 30 has been amended so as to provide for a safeguard relating to acquisition of property of an educational institution established and administered by a minority to the effect that the State shall ensure that the amount fixed by or determined under a law providing for the compulsory acquisition of such property is such as would not affect the right of minorities to establish and administer educational institutions of their choice. New article 300A provided that no person shall be deprived of his property save by authority of law. (Sections 2, 4, 6 and 34)

A new Directive Principle has been inserted in article 38, relating to the directive to the State to secure a social order for the promotion of the welfare of the people to the effect that the State shall strive to minimise 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. (Section 9)

Provisions as to preventive detention in article 22 have been amended:

- (a) for restricting the maximum period for which a person may be detained without obtaining the opinion of Advisory Board from three months to two months;
- (b) for providing that an Advisory Board will consist of a Chairman and not less than two other members, that the Constitution of an Advisory Board will be in accordance with the recommendations of the Chief Justice of the appropriate High Court (that is, the High Court for Delhi in the case of detention orders made by the Central Government or officers subordinate to the Central Government; the High Court for a State in the case of detention orders made by a State Government; and such High Court as may be specified by or under law made by Parliament in the case of detention orders made by the Administrator of a Union territory or officers subordinate to him), and that the Chairman of an Advisory Board will be a serving Judge of the appropriate High Court and the other members of an Advisory Board will be serving or retired Judges of any High Court; and

- (c) for doing away with the power of Parliament to provide for preventive detention without reference to an Advisory Board for a period longer than the maximum period laid down in this regard. (Section 3)

The new article substituted for article 71 restored the jurisdiction of the Supreme Court to enquire into doubts and disputes in respect of the election of a President or Vice-President. (Section 10)

Article 74(1), which provides that the President will act in accordance with the advice of the Council of Ministers, has been amended to provide that the President may require the Council of Ministers to reconsider any such advice but that the President will have to act in accordance with the advice tendered after such reconsideration. (Section 11)

Clause (4) of article 77 and clause (4) of article 166, relating respectively to the Government of India and the State Governments, have been omitted, thus restoring the power of Courts to compel production of rules relating to the transaction of business of the Union and the State Governments. (Sections 12 and 23)

Articles 83 and 172, relating respectively to the House of the People and the State Legislative Assemblies, have been amended to restore the terms of the House of the People and the State Legislative Assemblies to five years. (Sections 13 and 24)

Articles 103 and 192, relating respectively to decisions on questions as to disqualification of members of Parliament and of State Legislatures, have been substituted to provide that the decision on the question as to disqualification, by the President in the case of a member of Parliament and by the Governor in the case of a member of a State Legislature, shall be in accordance with the opinion of the Election Commission. (Sections 14 and 25)

Articles 105 and 194, relating respectively to the privileges of Houses of Parliament and of State Legislatures, have been amended to omit the reference to the British House of Commons in these articles and to provide instead that the powers, privileges and immunities of the House and of the members and committees thereof will be those

immediately before the coming into force of the amending provisions of the present Act. (Sections 15 and 26)

The newly inserted article 134A has provided that the High Court should consider the question of granting of a certificate for appeal to the Supreme Court under articles 132(1), 133(1) or 134(1) immediately on the delivery of the judgment, decree, final order or sentence concerned, on the basis of an oral application by or on behalf of the party aggrieved or, if the High Court deems it fit so to do, on its own motion. (Section 20)

The provisions in article 132 has been amended to provide that on the certificate of the High Court under article 134(A), an appeal shall lie to the Supreme Court. (Section 17)

Article 139A has been substituted. It provides that where the 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. The article, as amended, also provides that the Supreme Court may after determining the questions of law return any case withdrawn, to the High Court for disposal thereof, in conformity with the Supreme Court's judgment. (Section 21)

Sub-clause (c) of clause (2) of article 217, making distinguished jurists eligible for appointment as Judges of High Courts, has been omitted. (Section 28)

Article 226, relating to the writ jurisdiction of the High Courts, has been amended to restore to the High Courts their power to issue writs for any other purposes besides the enforcement of Fundamental Rights. Further, under the amended article 226, any party against whom an interim order is made *ex parte* on, or in proceeding relating to, a writ petition may make an application for the vacation of such order, and if the application is not disposed of within two weeks from the date of its receipt by the High Court or from the date on which the copy of

such application is so furnished, the interim order will stand vacated. (Section 30)

Article 227 has been amended to restore to a High Court its power of superintendence over all courts and tribunals within its territorial jurisdiction. (Section 31)

Article 257A, relating to assistance by the Central Government to States by deployment of armed forces or other forces of the Union, has been omitted. (Section 33)

Article 329A, relating to special provisions as to calling in question elections to Parliament in the case of Prime Minister and Speaker, has been omitted. (Section 36)

Article 352, relating to Proclamation of Emergency, has been amended in several respects. In the first place, the ground of “internal disturbance” had been substituted by the ground of “armed rebellion”. In the second place, it has been provided that the President will not issue a Proclamation of Emergency unless the decision of the Union Cabinet that such a Proclamation may be issued has been communicated to him in writing. In the third place, it has been provided that a Proclamation of Emergency will have to be approved within a period of one month (instead of two months) by resolution of both Houses of Parliament and that such resolution will have to be passed by a majority of the total membership of each House and by a majority of not less than two-thirds of the members present and voting in each House (instead of a simple majority). In the fourth place, it has been provided that for the continuance of the Proclamation of Emergency, approval by resolutions of both Houses will be required every six months. In the fifth place, it has been provided that the President shall revoke a Proclamation issued under clause (1) of article 352 if the House of the People passes a resolution for its disapproval or for disapproving its continuance. It has also been provided that one-tenth of the total membership of the House of the People may give notice (to the Speaker, if the House is in session, or, to the President, if the House is not in session) of their intention to move a resolution for disapproving or for disapproving the continuance in force of such Proclamation, for a special sitting of the House for the purpose of considering such resolution. The provisions in regard to revocation of a Proclamation of Emergency

pursuant to a resolution by the House of the People to that effect and holding of a special sitting of the House for considering the question of continuance of a Proclamation of Emergency will apply in relation to a Proclamation or varying such Proclamation as well. Clause (5) of article 352, making the satisfaction of the President as to existence of a grave emergency necessitating the issue of a Proclamation of Emergency final, has been omitted. (Section 37)

Article 356, relating to the President's power to issue a Proclamation in case of failure of constitutional machinery in a State, has been amended. Under the article as amended, such a Proclamation will, upon its being approved first by resolution by both Houses of Parliament, continue for six months from the date of issue of Proclamation (instead of one year from the date of the second of the resolutions approving the Proclamation) and upon its being approved likewise on a subsequent occasion, it will continue for a further period of six months (instead of one year). However, a resolution with respect to the continuance in force of a Proclamation under the article 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 Proclamation of Emergency is in operation in the whole of India or in the whole or any part of the State at the time of the passing of such resolution and the Election Commission certifies that the continuance in force of the Proclamation during the period specified in such resolution is necessary on account of difficulties in holding elections to the Legislative Assembly of the State concerned. (Section 38)

Article 358, relating to the suspension of the provisions of article 19 (regarding citizens' freedoms of speech, assembly, movement, residence and settlement, association and occupation) during Emergencies, has been amended. Under the article as amended, the provisions of article 19 will become suspended only in the case of a Proclamation of Emergency issued on the ground of war or external aggression and not in the case of a Proclamation of Emergency issued on the ground of armed rebellion. Further, the suspension of article 19 under article 358 will not apply in relation to any law which does not contain a recital to the effect that such law is being made in relation

to the Proclamation of Emergency or to an executive action taken otherwise than under a law containing such a recital. (Section 39)

Article 359, relating to suspension of the enforcement of the rights conferred by Part III of the Constitution during Emergencies, has been amended in two respects. The first amendment is for providing that the enforcement of rights under article 20 (relating to protection in respect of conviction for offences) and article 21 (relating to protection of life and personal liberty) cannot be suspended. The second amendment is for providing that the suspension of enforcement of any right under the article will not apply in relation to any law which does not contain a recital to the effect that such law is being made in relation to the Proclamation of Emergency in operation or to any executive action taken otherwise than under a law containing such a recital. (Section 40)

Article 360, relating to Financial Emergency, has been amended to provide that the Proclamation may be revoked or varied by subsequent Proclamation. The Proclamation shall be laid before each House of Parliament, and shall cease to operate at the expiration of two months unless approved by a resolution of both the Houses of Parliament before that. Clause (5) of article 360 which makes the satisfaction of the President final and conclusive as to the arising of a situation whereby the financial stability or credit of the country or any part thereof is threatened, has been omitted. (Section 41)

New article 361A has been inserted providing for constitutional protection from civil or criminal proceedings in any Court in respect of publication of a substantially true report of the proceedings of Parliament and of State Legislatures. The protection will not be available in respect of proceedings of secret sittings. (Section 42)

Ninth Schedule, specifying Acts and Regulations which will be deemed not be void on the ground of any inconsistency with the provisions of Part III of the Constitution relating to Fundamental Rights, has been amended for omitting Entries 87 [The Representation of the People Act, 1951, the Representation of the People (Amendment) Act, 1974 and the Election Laws (Amendment) Act, 1975], 92 (The Maintenance of Internal Security Act, 1971) and 130 (The Prevention of Publication of Objectionable Matter Act, 1976). (Section 44)

## XLV

### **THE CONSTITUTION (FORTY-FIFTH AMENDMENT) ACT, 1980<sup>332</sup>**

*Objects and Reasons of the Bill*

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the Lok Sabha and in the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of thirty years from the commencement of the Constitution. Although the Scheduled Castes and the Scheduled Tribes have made considerable progress in the last thirty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members, have not ceased to exist. It was, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of Anglo-Indians by nomination for a further period of ten years.

The Bill sought to achieve the above object.

*Legislative History*

The Constitution (Forty-fifth Amendment) Bill, 1980 was introduced in the Lok Sabha on 23 January 1980<sup>333</sup>. The Bill sought to amend article 334 of the Constitution relating to reservation of seats for the Scheduled Castes and the Scheduled Tribes and special representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States.

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<sup>332</sup> Bill No.1 of 1980; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Zail Singh on 23 January 1980; Debated, Lok Sabha: 24 January 1980; Rajya Sabha: 25 January 1980; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Manipur, Meghalaya, Nagaland, Sikkim, Tripura and West Bengal; President's Assent: 14 April 1980; Date of Gazette Notification: 14 April 1980; Date of Commencement: 25 January 1980.

<sup>333</sup> L.S. Deb., 23 January 1980, cc. 54-55.

The Bill was considered by the Lok Sabha on 24 January 1980 and passed on the same day in the original form<sup>334</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 January 1980<sup>335</sup>.

*Important Provisions of the Act*

The Act amended article 334 of the Constitution to provide for the continuance of the provisions with regard to the reservation of seats for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and in the Legislative Assemblies of the States for another ten years, *i.e.* up to 26 January 1990. (Section 2)

## XLVI

### THE CONSTITUTION (FORTY-SIXTH AMENDMENT) ACT, 1982<sup>336</sup>

*Objects and Reasons of the Bill*

Sales tax laws enacted in pursuance of the Government of India Act, 1935, as also the laws relating to sales tax passed after the coming into force of the Constitution proceeded on the footing that the expression “sale of goods”, having regard to the rule as to broad interpretation of entries in the legislative lists, would be given a wider connotation. However, in *Gannon Dunkerley's case* (A.I.R. 1958 S.C. 560), the Supreme Court held that the expression “sale of goods” as used in the entries in the Seventh Schedule to the Constitution has the same meaning as in the Sale of Goods Act, 1930. The decision was related to works contracts.

<sup>334</sup> *Ibid.*, 24 January 1980, cc. 110-121.

<sup>335</sup> *R.S. Deb.*, 25 January 1980, cc. 195-198.

<sup>336</sup> Bill No. 52 of 1981; Introduced in Lok Sabha by the Minister of Finance, Shri R. Venkataraman on 3 April 1981; Debated, Lok Sabha: 13 and 14 July 1982; Rajya Sabha: 10 August 1982; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Bihar, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Orissa, Punjab, Rajasthan, Sikkim and Tamil Nadu; President's Assent: 2 February 1983; Date of Gazette Notification: 3 February 1983; Date of Commencement : 2 February 1983.

By a series of subsequent decisions the Supreme Court has, on the basis of the decision in *Gannon Dunkerley's case*, held various other transactions which resemble, in substance, transactions by way of sales, to be not liable to sales tax. As a result of these decisions, a transaction, in order to be subject to the levy of sales tax under Entry 92A of the Union List or Entry 54 of the State List, should have the following ingredients, namely, parties competent to contract, mutual assent and transfer of property in goods from one of the parties to the contract to the other party thereto for a price.

This position has resulted in scope for avoidance of tax in various ways. An example of this is the practice of inter-State consignment transfers, *i.e.* transfer of goods from head office or a principal in one State to a branch or an agent in another State or *vice versa* or transfer of goods on consignment account, to avoid the payment of sales tax on inter-State sales under the Central Sales Tax Act. While in the case of a works contract, if the contract treats the sale of materials separately from the cost of the labour, the sale of materials would be taxable, but in the case of an individual works contract, it is not possible to levy sales tax on the transfer of property in the goods involved in the execution of such contract as it has been held that there is no sale of the materials as such and the property in them does not pass as moveables. Though practically the purchaser in a hire-purchase agreement gets the goods on the date of the hire-purchase, it has been held that there is sale on when the purchaser exercises the option to purchase at a much later date and, therefore, only the depreciated value of the goods involved in such transaction at the time the option to purchase is exercised becomes assessable to sales tax. Similarly, while sale by a registered club or other association of persons (the club or association of persons having corporate status) to its members is taxable, sales by an un-incorporated club or association of persons to its members is not taxable, as such club or association, in law, has no separate existence from that of members. In the *Associated Hotels of India case* (A.I.R. 1972 S.C. 1131), the Supreme Court held that there is no sale involved in the supply of food or drink by a hotelier to a person lodged in the hotel.

In the *New India Sugar Mills case* (A.I.R. 1963 S.C. 1207), the Supreme Court took the view that in the transfer of controlled

commodities in pursuance of a direction under a Control Order, the element of violation by the seller, or mutual assent, is absent and, therefore, there is no sale as defined in the Sale of Goods Act, 1930. However, in *Oil and Natural Gas Commission vs. State of Bihar* (A.I.R. 1976 S.C. 2478), the Supreme Court had occasion to consider its earlier decisions with regard to the liability of transfers of controlled commodities to be charged to sales tax. The Supreme Court held that where there are any statutory compulsions, the Statute itself should be treated as supplying the consensus and furnishing the modality of the consensus. In *Vishnu Agencies vs. Commercial Tax Officer* (AIR 1978 S.C. 449), six of the seven Judges concurred in overruling the decision in *New India Sugar Mills case* while the seventh Judge held the case to be distinguishable. It was, therefore, considered desirable to put the matter beyond any doubt.

The various problems connected with the power of the States to levy a tax on the sale of goods and with the Central Sales Tax Act, 1956, were referred to the Law Commission. The Commission considered these matters in their Sixty-first Report and recommended *inter alia* certain amendments in the Constitution if as a matter of administrative policy it is decided to levy tax on transactions of the nature mentioned in the preceding paragraphs.

Device by way of lease of films has also been resulting in avoidance of sales tax. The main right in regard to a film relates to its exploitation and after exploitation for a certain period of time, in most cases, the film ceases to have any value. It is, therefore, seen that instead of resorting to the outright sale of a film, only a lease or transfer of the right to exploitation is made.

There were reports from State Governments to whom revenues from sales tax have been assigned, as to the large scale avoidance of central sales tax leviable on inter-State sales of goods through the device of consignment of goods from one State to another and as to the leakage of local sales tax in works contracts, hire-purchase transaction, lease of films, etc. Though Parliament could levy a tax on these transactions, as tax on sales has all along been treated as an item of revenue to be assigned to the State, in regard to these transactions which resemble sales also, it is considered that the same policy should be adopted.

Besides the above-mentioned matters, a new problem has arisen as a result of the decision of the Supreme Court in *Northern India Caterers (India) Ltd. vs. Lt. Governor Delhi* (AIR 1978 S.C. 1591). States have been proceeding on the basis that the *Associated Hotels of India case* was applicable only to supply of food or drink by a hotelier to a person lodged in the hotel and that tax was leviable on the sale of foodstuffs by a restaurant. But overruling the decision of the Delhi High Court, the Supreme Court has held in the above case that service of meals whether in a hotel or a restaurant does not constitute a sale of food for the purpose of levy of sales tax but must be regarded as the rendering of a service in the satisfaction of a human need or ministering to the bodily want of human beings. It would not make any difference whether the visitor to the restaurant is charged for the meal as a whole or according to each dish separately.

It is, therefore, proposed to suitably amend the Constitution to include in article 366 a definition of “tax on the sale or purchase of goods” by inserting a new clause (29A). The definition would specifically include within the scope of that expression tax on:

- (i) transfer for consideration of controlled commodities;
- (ii) the transfer of property in goods involved in the execution of a works contract;
- (iii) delivery of goods on hire-purchase or any system of payment by instalments;
- (iv) transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration;
- (v) the supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration; and
- (vi) the supply, by way of or as part of any service, of food or any drink for cash, deferred payment or other valuable consideration.

A new entry is sought to be inserted in the Union List in the Seventh Schedule, as Entry 92B, to enable the levy of tax on the consignment of goods where such consignment takes place in the course of inter-State trade or commerce.

Clause (1) of article 269 is proposed to be amended so that the tax levied on the consignment of goods in the course of inter-State trade or commerce shall be assigned to the States. Clause (3) of that article is proposed to be amended to enable Parliament to formulate by law principles for determining when a consignment of goods takes place in the course of inter-State trade or commerce.

Clause (3) of article 286 is proposed to be amended to enable Parliament to specify, by law, restrictions and conditions in regard to the system of levy, rates and other incidents of the tax on the transfer of goods involved in the execution of a works contract, on the delivery of goods on hire-purchase or any system of payment by instalments and on the right to use any goods.

The proposed amendments would help in the augmentation of the State revenues to a considerable extent. Clause 6 of the Bill seeks to validate laws levying tax on the supply of food or drink for consideration and also the collection or recoveries made by way of tax under any such law. However, no sales tax will be payable on food or drink supplied by a hotelier to a person lodged in the hotel during the period from the date of the judgment in the *Associated Hotels of India case* and the commencement of the present Amendment Act if the conditions mentioned in sub-clause (2) of clause 6 of the Bill are satisfied. In the case of food or drink supplied by restaurants this relief will be available only in respect of the period after the date of judgment in the *Northern India Caterers (India) Limited case* and the commencement of the present Amendment Act.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Forty-sixth Amendment) Bill, 1981 was introduced in the Lok Sabha on 3 April 1981<sup>337</sup>. The Bill sought to amend articles 269, 286 and 366 and the Seventh Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 13 and 14 July and passed by that House<sup>338</sup> on 14 July 1982 with formal amendment in

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<sup>337</sup> L.S. Deb., 3 April 1931, c. 340.

<sup>338</sup> Ibid., 14 July 1982, cc. 390-398.

clause 1 and in the Enacting Formula replacing the figure “1981” by the figure “1982” and the word “Thirty-second” by the word “Thirty-third”, respectively<sup>339</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 10 August 1982<sup>340</sup>.

Clauses 2 to 6 of the Bill were adopted in the original form by both the Lok Sabha and the Rajya Sabha<sup>341</sup>.

#### *Important Provisions of the Act*

A new sub-clause (h) has been inserted in clause (1) of article 269 of the Constitution providing that the taxes levied on the consignment of goods in the course of inter-State trade or commerce shall be assigned to the States. Clause (3) of that article, as amended, enables Parliament to formulate by law principles for determining when a consignment of goods takes place in the course of inter-State trade or commerce. Earlier this power was confined to sale or purchase only. (Section 2)

In article 286, for clause (3) a new clause has been substituted also making a tax by a State on the sale or purchase of goods, being a tax of the nature as referred to in sub-clauses (b), (c) and (d) of clause (29A) of article 366 subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify. (Section 3)

In article 366, definition of an expression “tax on the sale or purchase of goods” has been included by inserting a new clause (29A). The definition specifically includes within the scope of that expression tax on: (a) transfer, otherwise than in pursuance of a contract, of property in goods for consideration as specified therein; (b) the transfer of property in goods involved in the execution of a works contract; (c) delivery of goods on hire-purchase or any system of payment by instalments; (d) transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration; (e) the supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable

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<sup>339</sup> *Ibid.*, cc. 387-388.

<sup>340</sup> *R.S. Deb.*, 10 August 1982, cc. 346-350.

<sup>341</sup> *L.S. Deb.*, 14 July 1982, cc. 334-387; *R.S. Deb.*, 10 August 1982, cc. 318-341.

consideration; (f) the supply, by way of or as part of any service, of food or any other article for human consumption or any drink for cash, deferred payment or other valuable consideration. (Section 4)

A new Entry 92B inserted in the Union List in the Seventh Schedule enables the levy of tax on the consignment of goods where such consignment takes place in the course of inter-State trade or commerce. (Section 5)

Section 6 of the Act has validated laws levying tax on the supply of food or drink for consideration and also the collection or recoveries made by way of tax under any such law. However, no sales tax will be payable on food or drink supplied by a hotelier during the period from 4 January 1972 and the commencement of this Act, if the conditions mentioned in sub-section (2) of section 6 of the Act are satisfied. In the case of food or drink supplied by restaurants, this relief will be available only in respect of the period from 7 September 1978 and the commencement of this Act.

## XLVII

### **THE CONSTITUTION (FORTY-SEVENTH AMENDMENT) ACT, 1984<sup>342</sup>**

#### *Objects and Reasons of the Bill*

Article 31B the Constitution confers on the enactments included in the Ninth Schedule to the Constitution, immunity from any possible attack that they are violative of any of the Fundamental Rights. The immunity does not extend to any amendment made to such Acts after their inclusion in the Ninth Schedule.

Recourse was had in the past, of the Ninth Schedule whenever it was found that progressive legislation conceived in the interest of the public was imperilled by litigation. Several State enactments relating to land reforms and ceiling on agricultural land holdings have already

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<sup>342</sup> Bill No. 94 of 1983; Introduced as the Constitution (Forty-eighth Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Rural Development, Shri Harinatha Misra on 19 August 1983; Debated, Lok Sabha: 22 and 23 August 1984; Rajya Sabha: 25 August 1984; President's Assent: 26 August 1984; Date of Gazette Notification: 26 August 1984; Date of Commencement: 26 August 1984.

been included in the Ninth Schedule. The Sixth Five-Year Plan contained an assurance that “necessary action would be taken to bring before Parliament land reforms Acts not yet included in the Ninth Schedule to the Constitution for immediate inclusion in the said Schedule” and that the same “would be done in the case of future Acts without delay so that these laws are protected from challenge in courts”. The State Governments of Assam, Bihar, Haryana, Tamil Nadu, Uttar Pradesh and West Bengal and the Administration of the Union territory of Goa, Daman and Diu suggested the inclusion of some of their Acts relating to land reforms in the Ninth Schedule. Some of these Acts were by way of amendments to Acts already included in the Ninth Schedule. The Bill sought to include in the Ninth Schedule such of these Acts in order to prevent them from being adversely affected by litigation.

#### *Legislative History*

The Constitution (Forty-seventh Amendment) Act, 1984, when introduced in the Lok Sabha on 19 August 1983, was titled as the Constitution (Forty-eighth Amendment) Bill, 1983<sup>343</sup>. The Bill sought to amend the Ninth Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 22 and 23 August and passed by that House<sup>344</sup> on 23 August 1984 with formal amendments<sup>345</sup> changing the short title to the Constitution (Forty-seventh Amendment) Act, 1984 and replacing the word “Thirty-fourth” by the word “Thirty-fifth” in the Enacting Formula. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 August 1984<sup>346</sup>.

#### *Important Provisions of the Act*

The Act added to the Ninth Schedule to the Constitution, 14 additional legislations relating to land reforms, etc., enacted by the States of Assam, Bihar, Haryana, Tamil Nadu, Uttar Pradesh and West Bengal and the Union territory of Goa, Daman and Diu with a view to provide that the enactments shall not be deemed to be void on the ground that they are inconsistent with any of the provisions of Part III of the Constitution relating to Fundamental Rights.

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<sup>343</sup> L.S. Deb., 19 August 1983, cc. 362-363.

<sup>344</sup> Ibid., 23 August 1984, cc. 355-366.

<sup>345</sup> Ibid., cc. 351-352.

<sup>346</sup> R.S. Deb., 25 August 1984, cc. 73-77.

## XLVIII

### **THE CONSTITUTION (FORTY-EIGHTH AMENDMENT) ACT, 1984<sup>347</sup>**

#### *Objects and Reasons of the Bill*

The Proclamation issued by the President under article 356 of the Constitution on 6 October 1983 with respect to the State of Punjab could not be continued in force for more than one year unless the special conditions mentioned in clause (5) of article 356 of the Constitution were satisfied. Although the Legislative Assembly was in suspended animation and a popular Government could not be installed, having regard to the prevailing situation in the State, the continuance of the Proclamation beyond 5 October 1984 was considered necessary. To facilitate the adoption of a resolution by the two Houses of Parliament approving the continuance in force of the Proclamation beyond 5 October 1984, it was considered necessary to amend article 356 of the Constitution. Therefore, the Bill sought to amend clause (5) of article 356 so as to make the condition mentioned therein inapplicable for the purposes of the continuance in force of the said Proclamation up to a period of two years from the date of its issue.

#### *Legislative History*

The Constitution (Forty-eighth Amendment) Act, 1984, when introduced in the Lok Sabha on 17 August 1984, was titled as the Constitution (Fiftieth Amendment) Bill, 1984<sup>348</sup>. The Bill sought to amend article 356 of the Constitution.

The Bill was considered by the Lok Sabha on 23 August 1984 and passed on the same day with a formal amendment changing the short title to “The Constitution (Forty-eighth Amendment) Act, 1984<sup>349</sup>. The

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<sup>347</sup> Bill No. 77 of 1984; Introduced as the Constitution (Fiftieth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri P.V. Narasimha Rao on 17 August 1984; Debated, Lok Sabha: 23 August 1984; Rajya Sabha: 25 August 1984; President’s Assent: 26 August 1984; Date of Gazette Notification: 26 August 1984; Date of Commencement: 26 August 1984.

<sup>348</sup> L.S. Deb., 17 August 1984, c. 230.

<sup>349</sup> Ibid., 23 August 1984, cc. 468-479.

Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 August 1984<sup>350</sup>.

*Important Provisions of the Act*

New proviso inserted in clause (5) of article 356 of the Constitution provides that in the case of the Proclamation issued by the President on 6 October 1983 with respect to the State of Punjab, Parliament may pass any resolution with respect to the continuance in force of the Proclamation for a period up to two years. (Section 2)

## XLIX

### **THE CONSTITUTION (FORTY-NINTH AMENDMENT) ACT, 1984<sup>351</sup>**

*Objects and Reasons of the Bill*

The Tripura Legislative Assembly passed a resolution on 19 March 1982 and again on 11 February 1983, urging the Government of India to apply the provisions of the Sixth Schedule to the Constitution to the tribal areas of the State. The State Government, therefore, recommended amendment of the Constitution for the purpose. Though under the Tripura Tribal Areas Autonomous District Council Act, 1979, an Autonomous District Council had been functioning in the State, it was considered necessary to give it the constitutional sanctity with a view to meet the aspirations of the tribal population. The Council was expected to ensure rapid development of tribal areas and self-governance by the tribals.

In view of the above, the Bill sought to amend the Constitution.

*Legislative History*

The Constitution (Forty-ninth Amendment) Act, 1984, when introduced in the Lok Sabha on 17 August 1984, was titled as the

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<sup>350</sup> R.S. Deb., 25 August 1984, cc. 157-161.

<sup>351</sup> Bill No. 79 of 1984; Introduced as the Constitution (Fifty-first Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri P.V. Narasimha Rao on 17 August 1984; Debated, Lok Sabha: 23 August 1984; Rajya Sabha: 25 August 1984; President's Assent: 11 September 1984; Date of Gazette Notification: 11 September 1984; Date of Commencement: 1 April 1985.

Constitution (Fifty-first Amendment) Bill, 1984<sup>352</sup>. The Bill sought to amend article 244 and the Fifth and Sixth Schedules to the Constitution.

The Bill was considered by the Lok Sabha on 23 August 1984 and passed on the same day with a formal amendment changing the short title to the Constitution (Forty-ninth Amendment) Act, 1984<sup>353</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 August 1984<sup>354</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

Article 244 of the Constitution has been amended to provide for application of the provisions of the Sixth Schedule to the Constitution to the tribal areas of the State of Tripura. (Section 2)

New Paragraph 12AA inserted in the Sixth Schedule to the Constitution has provided for the application of the Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State. (Section 4)

## L

### **THE CONSTITUTION (FIFTIETH AMENDMENT) ACT, 1984<sup>355</sup>**

#### *Objects and Reasons of the Bill*

By article 33 of the Constitution, Parliament is empowered to enact laws determining as to what extent any of the rights conferred by

<sup>352</sup> L.S. Deb., 17 August 1984, c. 230.

<sup>353</sup> Ibid., 23 August 1984, cc. 546-556.

<sup>354</sup> R.S. Deb., 25 August 1984, cc. 232-236.

<sup>355</sup> Bill No. 89 of 1984; Introduced as the Constitution (Fifty-second Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri P.V. Narasimha Rao on 22 August 1984; Debated, Lok Sabha: 23 August, 1984; Rajya Sabha: 25 August 1984; President's Assent: 11 September 1984; Date of Gazette Notification: 11 September 1984; Date of Commencement: 11 September 1984.

Part III of the Constitution shall in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

The Bill sought to amend article 33 to bring within its ambit: (i) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence and (ii) persons employed in, or, in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organization, as experience has revealed that the need for ensuring proper discharge of their duties and the maintenance of discipline among them is of paramount importance in the national interest.

#### *Legislative History*

The Constitution (Fiftieth Amendment) Act, 1984, when introduced in the Lok Sabha on 22 August 1984, was titled as the Constitution (Fifty-second Amendment) Bill, 1984<sup>356</sup>. The Bill sought to substitute a new article for the existing article 33 of the Constitution.

The Bill was considered by the Lok Sabha on 23 August 1984 and, as amended, passed on the same day<sup>357</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 August 1984<sup>358</sup>.

During consideration of the Bill, in clause 2 an amendment moved by the Minister of Home Affairs, Shri P.V. Narasimha Rao in the Lok Sabha was accepted. The amendment was moved with a view to omit sub-clause (c) and make consequential changes in sub-clause (d) and (e) of the article sought to be substituted for the existing article 33 of the Constitution. The clause, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 23 and 25 August 1984, respectively<sup>359</sup>.

<sup>356</sup> *L.S. Deb.*, 22 August 1984, c. 363.

<sup>357</sup> *Ibid.*, 23 August 1984, cc. 608-619.

<sup>358</sup> *R.S. Deb.*, 25 August 1984, cc. 306-310.

<sup>359</sup> *L.S. Deb.*, 23 August 1984, cc. 596-607; *R.S. Deb.*, 25 August 1984, cc. 297-301.

Clause 1 of the Bill was adopted by the Lok Sabha and the Rajya Sabha on 23 and 25 August 1984 respectively<sup>360</sup>, with a formal amendment changing the short title to “The Constitution (Fiftieth Amendment) Act, 1984”.

*Important Provisions of the Act*

New article substituted for article 33 of the Constitution has provided that Parliament may, by law, determine to what extent any of the rights conferred by Part III of the Constitution shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order or persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence or persons employed, in or in connection with the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to above, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them. (Section 2)

## LI

### **THE CONSTITUTION (FIFTY-FIRST AMENDMENT) ACT, 1984<sup>361</sup>**

*Objects and Reasons of the Bill*

The Meghalaya Legislative Assembly passed a resolution on 31 March 1980 urging the Government of India to provide for reservation of seats for Scheduled Tribes in the State Legislative Assembly and also in the House of the People (Lok Sabha) on the pattern existing in other States. The State Government, therefore,

<sup>360</sup> *Ibid.*, c. 607; *ibid.*, cc. 301-305.

<sup>361</sup> Bill No. 81 of 1984; Introduced as the Constitution (Fifty-third Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri P.V. Narasimha Rao on 23 August 1984; Debated, Lok Sabha: 23 August 1984; Rajya Sabha: 25 August 1984; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Bihar, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh; President's Assent: 29 April 1985; Date of Gazette Notification: 29 April 1985; Date of Commencement: 16 June 1986.

recommended amendment of articles 330 and 332 of the Constitution. The Governments of Nagaland, Arunachal Pradesh and Mizoram have also supported the amendment in respect of their respective areas. The Bill, therefore, sought to amend article 330 of the Constitution to provide for reservation of seats in the Lok Sabha for Scheduled Tribes in Meghalaya, Nagaland, Arunachal Pradesh and Mizoram and article 332 to provide for similar reservation in the Legislative Assemblies of Nagaland and Meghalaya. The amendments have been proposed to meet the aspirations of the local tribal population.

The Bill sought to achieve the above object.

#### *Legislative History*

The Constitution (Fifty-first Amendment) Act, 1984 titled as the Constitution (Fifty-third Amendment) Bill, 1984 was introduced in the Lok Sabha on 23 August 1984<sup>362</sup>, after a motion for suspension of rule 338 of Rules of Procedure and Conduct of Business in Lok Sabha in its application to the Bill had been adopted by the House. It sought to amend articles 330 and 332 of the Constitution.

The Bill was considered by the Lok Sabha on 23 August 1984 and passed on the same day only with a formal amendment in clause 1 changing the short title to the Constitution (Fifty-first Amendment) Act, 1984<sup>363</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 25 August 1984<sup>364</sup>.

Clauses 2 and 3 of the Bill were adopted in the original form both by the Lok Sabha and the Rajya Sabha on 23 and 25 August 1984, respectively<sup>365</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

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<sup>362</sup> *L.S. Deb.*, 23 August 1984, c. 314. See also the Constitution (Forty-seventh Amendment) Bill 1982: for Legislative History in Chapter III and for Text in Annexure (B).

<sup>363</sup> *Ibid.*, cc. 651-660.

<sup>364</sup> *R.S. Deb.*, 25 August 1984, cc. 256-260.

<sup>365</sup> *L.S. Deb.*, 23 August 1984, cc. 630-641; *R.S. Deb.*, 25 August 1984, cc. 241-251.

Article 330 has been amended to provide for reservation of seats in Lok Sabha for Scheduled Tribes in Meghalaya, Nagaland, Arunachal Pradesh and Mizoram. However, the amendment will not affect any representation in Lok Sabha until the dissolution of the House existing at the commencement of the Act. (Section 2)

Amendment to article 332 has been made to provide for reservation of seats for Scheduled Tribes in the Legislative Assemblies of Nagaland and Meghalaya. However, this amendment shall not affect any representation in the Legislative Assemblies of Nagaland and Meghalaya until the dissolution of the Legislative Assemblies of the State existing at the commencement of the Act. (Section 3)

## LII

### **THE CONSTITUTION (FIFTY-SECOND AMENDMENT) ACT, 1985<sup>366</sup>**

#### *Objects and Reasons of the Bill*

The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it. With this object, an assurance was given in the Address by the President to Parliament that the Government intended to introduce in the Parliament an anti-defection Bill. The Bill meant for outlawing defection and fulfilling the above assurance.

The Bill sought to amend the Constitution to provide that an elected member of Parliament or a State Legislature, who has been elected as a candidate set up by a political party and a nominated member of Parliament or a State Legislature who is a member of a political party at the time he takes his seat or who becomes a member of a political party within six months after he takes his seat would be disqualified on the ground of defection if he voluntarily relinquishes his membership

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<sup>366</sup> Bill No. 22 of 1985; Introduced in Lok Sabha by the Minister of Law and Justice, Shri A.K. Sen on 24 January 1985; Debated; Lok Sabha: 30 January 1985; Rajya Sabha: 31 January 1985; President's Assent: 15 February 1985; Date of Gazette Notification: 15 February 1985; Date of Commencement: 1 March 1985.

of any such political party or votes or abstains from voting in such House contrary to any direction of such party or is expelled from such party. An independent member of Parliament or a State Legislature shall also be disqualified if he joins any political party after his election. A nominated member of Parliament or a State Legislature who is not a member of a political party at the time of his nomination and who has not become a member of any political party before the expiry of six months from the date on which he takes his seat shall be disqualified if he joins any political party after the expiry of the said period of six months. The Bill also makes suitable provisions with respect to splits in, and mergers of, political parties. A special provision has been included in the Bill to enable a person who has been elected as the Presiding Officer of a House to sever his connections with his political party. The question as to whether a member of a House of Parliament or State Legislature has become subject to the proposed disqualification, shall be determined by the Presiding Officer of the House; where the question is with reference to the Presiding Officer himself, it shall be decided by a member of the House elected by the House in that behalf.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Fifty-second Amendment) Bill, 1985 was introduced in the Lok Sabha on 24 January 1985<sup>367</sup>. The Bill sought to: (i) amend articles 101, 102, 190 and 191 and (ii) insert a new Tenth Schedule in the Constitution incorporating provisions as to disqualification for a member of either House of Parliament or of a Legislative Assembly or Legislative Council of a State, on the ground of defection.

The Bill was considered by the Lok Sabha on 30 January 1985 and passed with some modifications on the same day<sup>368</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 31 January 1985<sup>369</sup>.

During consideration of clause 6 of the Bill, which sought to insert a new Tenth Schedule in the Constitution, the amendments moved by

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<sup>367</sup> *L.S. Deb.*, 24 January 1985, c. 103.

<sup>368</sup> *Ibid.*, 30 January 1985, cc. 264-278.

<sup>369</sup> *R.S. Deb.*, 30 January 1985, cc. 165-166.

the Minister of Law and Justice, Shri A.K. Sen, in the Lok Sabha were accepted by the House<sup>370</sup>. Sub-para (1) (c) of para 2 of the new Tenth Schedule which was sought to be omitted read as under:

(c) if he has been expelled from such political party in accordance with the procedure established by the constitution, rules or regulations of such political party.

The other amendment in Para 2 of the new Schedule was that the following words be added in sub-para 1 (b) thereof;

“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.”

A new clause sought to be substituted for clause (a) of Para 3 in the new Schedule read as under:

“(a) he shall not be disqualified under sub-paragraph (1) of Paragraph 2 on the following ground:

- (i) that he has voluntarily given up his membership of his original political party; or
- (ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and”

The original clause (a) of Para 3 read as follows:

“(a) he shall not be disqualified under sub-paragraph (1) of Paragraph 2 on the ground that he has voluntarily given up his membership of his original political party or has voted, or abstained from voting, in such House contrary to any direction issued by such party or by any person or authority authorised by such party in that behalf without obtaining the prior permission of such party; and”

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<sup>370</sup> L.S. Deb., 30 January 1985, cc. 225-228.

In Para 8 of the new Schedule, a new sub-para was sought to be substituted for the following sub-para (1) (b):

The officer of the House with whom and the manner in which the constitution, rules and regulations of such political parties and any amendments thereto and particular of the functionaries or other authorities of such parties for the time being exercising the power to expel members thereof may be filed.

New sub-para (1) (b) of Para 8 read as under:

“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.”

A consequential amendment moved to Para 8(1) (c) of the new Schedule sought to omit the words “expulsion from, or” occurring after the words “with regard to”. Clause 6, as amended, was adopted by the Lok Sabha and the Rajya Sabha on 30 and 31 January 1985, respectively<sup>371</sup>.

Clauses 1 to 5 were adopted in the original form both by the Lok Sabha and the Rajya Sabha. The Enacting Formula was adopted with a formal amendment replacing the word “Thirty-fifth” by the word “Thirty-sixth”.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

Article 102 has been amended to provide that a person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the new Tenth Schedule added in the Constitution. Consequential amendment has been made in article 101. (Sections 2-3)

Amendment has been made in article 191 to provide that a person shall be disqualified for being a member of the Legislative Assembly or the Legislative Council of a State if he is so disqualified under the

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<sup>371</sup> *Ibid.*, cc. 228-241; *R.S. Deb.*, 31 January 1985, cc. 155-160.

new Tenth Schedule. Consequential amendment has been made in article 190. (Sections 4-5)

Section 6 of the Act provides for insertion of Tenth Schedule to the Constitution which contains provisions as to disqualification of a member of Parliament or a State Legislature on the ground of defection. It provides *inter alia* that a member of Parliament or a State Legislature belonging to any political party would be disqualified on the ground of defection subject to the conditions as provided for therein, if he voluntarily relinquishes his membership of such political party, or votes or abstains from voting in the House contrary to any direction of such political party. The Act has also defined as to when an elected member or a nominated member shall be deemed to belong to a political party. It also states when an independent member or a nominated member (not a member of any political party at the time of nomination and who has not become a member of any political party before the expiry of six months from the date on which he takes his seat), would become subject to disqualification on the ground of defection.

If further provides that the ground of defection shall not apply in case of a split in original party by not less than one-third of the members of such party, and also in the case of merger of a political party with another.

Special provision has been made to exempt a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or of the Legislative Assembly of a State or to the office of Deputy Chairman of the Council of States or the Chairman/Deputy Chairman of the Legislative Council of a State from being disqualified under the Tenth Schedule if he voluntarily severs his membership of the party to which he belongs, by the reason of his election to such office or if he rejoins such party after he ceases to hold such office.

The question as to whether a member of a House of Parliament or State Legislature has become subject to the disqualification, shall be determined by the Chairman or the Speaker of the respective House and his decision shall be final. Where the question is with reference to the Chairman or the Speaker of a House, the question shall be referred for the decision of such member of the House as the House may elect in that behalf and his decision shall be final.

Provisions have been made barring the jurisdiction of the Courts in respect of any matter connected with the disqualification of a member of the House under the Schedule.

The Chairman or the Speaker of a House have been empowered to make rules for giving effect to the provisions of the Schedule. The rules shall be laid before the House and shall be subject to the approval of the House.

### LIII

#### **THE CONSTITUTION (FIFTY-THIRD AMENDMENT) ACT, 1986<sup>372</sup>**

##### *Objects and Reasons of the Bill*

On 30 June 1986, a Memorandum of Settlement on Mizoram was signed by the Government of India and the Government of Mizoram with the Mizo National Front which envisaged, among other things, the conferment of Statehood on the Union territory of Mizoram subject to the other stipulations contained in the Memorandum. Paragraph 4.2 of the Memorandum provided that to give effect to the decision “all the necessary legislative and administrative measures shall be undertaken, including those for the enactment of Bills for the amendment of the Constitution and other laws for the conferment of Statehood as aforesaid, to come into effect on a date to be notified by the Central Government”.

Paragraph 4.3 of the Memorandum provided as follows:

Acts of Parliament shall not apply to the new State of Mizoram unless so decided by the Mizoram Legislature with regard to:

- (i) religious or social practices of 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.

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<sup>372</sup> Bill No. 88 of 1986; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Buta Singh on 4 August 1986; Debated, Lok Sabha: 5 August 1986; Rajya Sabha: 7 August 1986; President's Assent: 14 August 1986; Date of Gazette Notification: 14 August 1986; Date of Commencement: 20 February 1987.

The above provision shall not, however, apply in the case of Central Acts which were in force in the Union territory of Mizoram immediately before the date on which the Constitution (Amendment) Act came into force.

The Memorandum also provided that the Legislative Assembly of the proposed new State of Mizoram shall consist of not less than forty members.

As the matters specified in paragraphs 2 and 3 are peculiar to the proposed new State of Mizoram, provisions with respect thereto have to be made in the Constitution itself. This Bill, accordingly, sought to amend the Constitution to provide for the aforesaid matters. A separate Bill for the establishment of the new State relatable to article 2 is also being introduced.

#### *Legislative History*

The Constitution (Fifty-third Amendment) Bill, 1986 was introduced in the Lok Sabha on 4 August 1986<sup>373</sup>. The Bill sought to insert a new article 371G in the Constitution for making special provision with respect to the State of Mizoram.

The Bill was considered by the Lok Sabha on 5 August 1986 and passed on the same day in the original form<sup>374</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 7 August 1986<sup>375</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

New article 371G has been inserted in the Constitution making special provision with regard to the State of Mizoram. It has provided that 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

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<sup>373</sup> L.S. Deb., 4 August 1986, c. 273.

<sup>374</sup> Ibid., 5 August 1986, cc. 376-410.

<sup>375</sup> R.S. Deb., 7 August 1986, cc. 220-238.

customary law, and (iv) ownership and transfer of land shall apply to the State of Mizoram unless the Legislative Assembly of the State by a resolution so decides. However, this provision shall not apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of this Act. The Legislative Assembly of the State of Mizoram shall consist of not less than forty members. (Section 2)

## LIV

### **THE CONSTITUTION (FIFTY-FOURTH AMENDMENT) ACT, 1986<sup>376</sup>**

#### *Objects and Reasons of the Bill*

The salaries of Judges of the Supreme Court and the High Courts are governed by the provisions of Part D of the Second Schedule to the Constitution of India as indicated below:

Chief Justice of India	Rs. 5,000 per month
Judges of the Supreme Court	Rs. 4,000 per month
Chief Justice of a High Court	Rs. 4,000 per month
Judges of a High Court	Rs. 3,500 per month

The salaries had remained static since 1950 despite high inflation and price rise that had taken place during all these years. The Joint Conference of Chief Justices, Chief Ministers and Law Ministers of the States held on 31<sup>st</sup> August and 1<sup>st</sup> September 1985, *inter alia*, discussed and recommended improvement in service conditions of Judges including increase in their salaries, not only to minimise the inflationary pressures on them but also to attract best talents in the country to man the judicial posts.

<sup>376</sup> Bill No. 95 of 1986; Introduced in Lok Sabha by the Minister of State in the Ministry of Law and Justice, Shri H.R. Bhardwaj on 8 August 1986; Debated, Lok Sabha: 12 August 1986; Rajya Sabha: 14 August 1986; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President's Assent: 14 March 1987; Date of Gazette Notification: 17 March 1987; Date of Commencement: 1 April 1986.

Having considered all aspects of the matter, it was proposed to increase the salaries of the Judges as detailed below:

Chief Justice of India	Rs. 10,000 per month
Judges of the Supreme Court	Rs. 9,000 per month
Chief Justice of a High Court	Rs. 9,000 per month
Judges of a High Court	Rs. 8,000 per month

This Bill sought to amend Part D of the Second Schedule to the Constitution to give effect to the above increases in the salaries of Judges and to make an enabling provision in articles 125 and 221 to provide for changes in the salaries of Judges in future by Parliament by law.

#### *Legislative History*

The Constitution (Fifty-Fourth Amendment) Bill, 1986 was introduced in the Lok Sabha on 8 August 1986<sup>377</sup>. The Bill sought to amend articles 125 and 221 and the Second Schedule to the Constitution.

The Bill was considered by the Lok Sabha on 12 August 1986 and, as amended, passed on the same day<sup>378</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 14 August 1986<sup>379</sup>.

Clauses 2 to 4 of the Bill were adopted, in the original form, by the Lok Sabha and the Rajya Sabha on 12 and 14 August 1986, respectively<sup>380</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with an amendment inserting the words “(2) It shall be deemed to have come into force on 1 April 1986”<sup>381</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 14 August 1986.<sup>382</sup>

<sup>377</sup> L.S. Deb., 8 August 1986, c. 289.

<sup>378</sup> Ibid., 12 August 1986, c. 753.

<sup>379</sup> R.S. Deb., 14 August 1986, c. 321.

<sup>380</sup> L.S. Deb., 12 August 1986, cc. 711, 725; R.S. Deb., 14 August 1986, c. 317.

<sup>381</sup> L.S. Deb., 12 August 1986, c. 726.

<sup>382</sup> R.S. Deb., 14 August 1986, c. 317.

*Important Provisions of the Act*

The Act has been given retrospective effect from 1 April 1986. (Section 1)

Articles 125 and 221 of the Constitution have been amended to provide that the Judges of the Supreme Court and of the High Court shall be paid such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, they shall be paid such salaries as are specified in the Second Schedule. (Sections 2-3)

Section 4 has amended the Second Schedule to the Constitution to enhance the salary of the Chief Justice of India from Rs. 5,000 to Rs. 10,000 per month, that of other Judges of the Supreme Court and Chief Justices of the High Courts from Rs. 4,000 to Rs. 9,000 per month and that of the Judges of the High Courts from Rs. 3,500 to Rs. 8,000 per month.

## LV

### **THE CONSTITUTION (FIFTY-FIFTH AMENDMENT) ACT, 1986<sup>383</sup>**

*Objects and Reasons of the Bill*

The Government of India had proposed to confer Statehood on the Union territory of Arunachal Pradesh. It had also proposed as follows:

- (i) Having regard to the sensitive location of Arunachal Pradesh, the Governor of the proposed new State shall have special responsibility with respect to law and order in the State and in the discharge of his functions thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken and this special responsibility of the Governor shall cease when the President by order so directs;

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<sup>383</sup> Bill No. 145 of 1986; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Buta Singh on 5 December 1986; Debated, Lok Sabha: 8 December 1986; Rajya Sabha: 9 December 1986; President's Assent: 23 December 1986; Date of Gazette Notification: 23 December 1986; Date of Commencement: 20 February 1987.

- (ii) The Legislative Assembly of the new State of Arunachal Pradesh shall consist of forty members. But as it was proposed to make the existing thirty-member Legislative Assembly of the Union territory of Arunachal Pradesh to be the Provisional Legislative Assembly for the new State of Arunachal Pradesh until elections are held on the expiry of the five year term of the existing Assembly, it was proposed to provide that the Legislative Assembly of the new State of Arunachal Pradesh shall consist of not less than thirty members.

In order to give effect to the above proposals, it was necessary to make special provisions in the Constitution. The Bill, accordingly, sought to amend the Constitution to provide for the aforesaid matters. A separate Bill for the establishment of the new State relatable to article 2 is also being introduced.

#### *Legislative History*

The Constitution (Fifty-fifth Amendment) Bill 1986, was introduced in the Lok Sabha on 5 September 1986<sup>384</sup>. The Bill sought to insert a new article 371H in the Constitution providing for special provision with respect to the State of Arunachal Pradesh.

The Bill was considered by the Lok Sabha on 8 December 1986 and passed on the same day in the original form<sup>385</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 9 December 1986<sup>386</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

New article 371H inserted in the Constitution has made special provision with respect to the State of Arunachal Pradesh providing

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<sup>384</sup> L.S. Deb., 5 December 1986, c. 267.

<sup>385</sup> Ibid., 8 December 1986, c. 132.

<sup>386</sup> R.S. Deb., 9 December 1986, c. 92.

*inter alia* that the Governor of the State shall have special responsibility with respect to law and order in the State. However, 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 such special responsibility, 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. A provision has also been made that the Legislative Assembly of the State shall consist of not less than thirty members. (Section 2)

## LVI

### THE CONSTITUTION (FIFTY-SIXTH AMENDMENT) ACT, 1987<sup>387</sup>

#### *Objects and Reasons of the Bill*

The Government of India had proposed to constitute the territories comprised in the Goa district of the Union territories of Goa, Daman and Diu as the State of Goa and the territories comprised in the Daman and Diu districts of that Union territory as a new Union territory of Daman and Diu. In this context, it also proposed that the Legislative Assembly of the new State of Goa shall consist of forty members. The existing Legislative Assembly of the Union territory of Goa, Daman and Diu has thirty elected members and three nominated members. It was intended to make this Assembly with the exclusion of two members representing Daman and Diu districts, the Provisional Legislative Assembly for the new State of Goa until elections are held on the expiry of the five-year term of the existing Assembly. It was, therefore, necessary to provide that the Legislative Assembly of the new State of Goa shall consist of not less than thirty members.

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<sup>387</sup> Bill No. 54 of 1987; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Buta Singh on 8 May 1987; Debated, Lok Sabha: 11 May 1987; Rajya Sabha: 12 May 1987; President's Assent: 23 May 1987; Date of Gazette Notification: 25 May 1987; Date of Commencement: 30 May 1987.

This Bill sought to achieve the above objects by making a special provision in the Constitution.

#### *Legislative History*

The Constitution (Fifty-sixth Amendment) Act, 1987, when introduced in the Lok Sabha on 8 May 1987, was titled as the Constitution (Fifty-seventh Amendment) Bill, 1987<sup>388</sup>. The Bill sought to insert a new article 371-I in the Constitution providing for special provision with respect to the State of Goa.

The Bill was considered by the Lok Sabha on 11 May 1987 and, as amended, passed on the same day<sup>389</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 12 May 1987<sup>390</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Fifty-seventh” by the word “Fifty-sixth”<sup>391</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 12 May 1987<sup>392</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

New article 371-I inserted in the Constitution, has made a special provision with respect of the State of Goa that its Legislative Assembly shall consist of not less than thirty members. (Section 2)

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<sup>388</sup> *L.S. Deb.*, 8 May 1987, c. 297.

<sup>389</sup> *Ibid.*, 11 May 1987, c. 115.

<sup>390</sup> *R.S. Deb.*, 12 May 1987, c. 118.

<sup>391</sup> *L.S. Deb.*, 11 May 1987, c. 103.

<sup>392</sup> *R.S. Deb.*, 12 May 1987, c. 114.

## LVII

### **THE CONSTITUTION (FIFTY-SEVENTH AMENDMENT) ACT, 1987<sup>393</sup>**

#### *Objects and Reasons of the Bill*

The Constitution (Fifty-first Amendment) Act, 1984 was enacted to provide for reservation of seats in the House of the People for the Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh and also for reservation of seats for Scheduled Tribes in Legislative Assemblies of Nagaland and Meghalaya by suitably amending articles 330 and 332. Even though these States are predominantly tribal areas, the underlying objective of the aforesaid Act was to ensure that the members of the Scheduled Tribes in these areas do not fail to secure a minimal representation because of their inability to compete with the advanced sections of the people.

The Constitution (Fifty-first Amendment) Act, though formally enforced, could not be fully implemented unless a parallel action was taken to determine the seats which were to be reserved for Scheduled Tribes in these areas. The number of seats reserved for Scheduled Castes and Scheduled Tribes in the Legislative Assembly of any State under article 332 of the Constitution will have to be determined having regard to the provisions of article 332(3) of the Constitution. However, in view of the historical background with respect to the areas comprised in the North-Eastern States, the circumstances existing in these areas, the State of development of the Scheduled Tribes in these areas and other relevant considerations, it was considered necessary to provide for special arrangements with regard to the reservation for Scheduled Tribes in these areas for a temporary period so as to facilitate easy transition of these areas to the normal arrangements as envisaged in the Constitution. The proposed Bill sought to further amend

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<sup>393</sup> Bill No. 93 of 1987; Introduced as the Constitution (Fifty-eighth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri Buta Singh on 26 August 1987; Debated, Lok Sabha: 27 and 28 August 1987; Rajya Sabha: 31 August 1987; President's Assent: 15 September 1987; Date of Gazette Notification: 15 September 1987; Date of Commencement: 21 September 1987.

article 332 of the Constitution for making temporary provision, until the re-adjustment of seats of the basis of the first census after the year 2000 under article 170 of the Constitution for these States, for the determination of the number of seats reserved for Scheduled Tribes.

The proposed amendment sought to provide that if all the seats in the Legislative Assembly of such States in existence on the date of coming into force of this Constitution Amendment Act are held by the members of the Scheduled Tribes, all the seats except one shall be reserved for Scheduled Tribes and, in any other case, such number of seats as bears to the total number of seats a proportion not less than the number of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

The Bill sought to achieve the above object.

#### *Legislative History*

The Constitution (Fifty-seventh Amendment) Act, 1987, when introduced in the Lok Sabha on 26 August 1987, was titled as the Constitution (Fifty-eighth Amendment) Bill, 1987<sup>394</sup>. The Bill sought to amend article 332 of the Constitution.

The Bill was considered by the Lok Sabha on 28 August 1987 and, as amended, passed on the same day<sup>395</sup>. The Bill, as passed by the Lok Sabha was considered and passed by the Rajya Sabha on 31 August 1987<sup>396</sup>.

Clauses 1 and 2 of the Bill were adopted by the Lok Sabha with formal Amendments replacing the word “Fifty-eighth” by the words “Fifty-seventh”<sup>397</sup>. Clauses 1 and 2, as amended by the Lok Sabha, were adopted by the Rajya Sabha on 31 August 1987<sup>398</sup>.

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<sup>394</sup> *L.S. Deb.*, 26 August 1987, c. 378.

<sup>395</sup> *Ibid.*, 28 August 1987, c. 422.

<sup>396</sup> *R.S. Deb.*, 31 August 1987, c. 69.

<sup>397</sup> *L.S. Deb.*, 28 August 1987, c. 406.

<sup>398</sup> *R.S. Deb.*, 31 August 1987, cc. 61, 65.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

Article 332 of the Constitution has been amended to provide that until the taking effect, under article 170, of the re-adjustment on the basis of the first census after the year 2000 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: (a) if all the seats in the Legislative Assembly of such State in existence on the date of commencement of this Act 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 that Assembly. But the amendment made to article 332 shall not affect representation in the Legislative Assembly of any of these States until the dissolution of the Legislative Assembly of the respective States existing at the commencement of this Act. (Section 2)

## LVIII

### **THE CONSTITUTION (FIFTY-EIGHTH AMENDMENT) ACT, 1987<sup>399</sup>**

*Objects and Reasons of the Bill*

The Constitution of India was adopted by the Constituent Assembly in English. The Hindi translation of the Constitution, signed by the members of the Constituent Assembly, was also published in 1950

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<sup>399</sup> Bill No. 8 of 1987; Introduced as the Constitution (Fifty-sixth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri Buta Singh on 27 February 1987; Debated, Lok Sabha: 24 November 1987; Rajya Sabha: 26 November 1987; President's Assent: 9 December 1987; Date of Gazette Notification: 10 December 1987; Date of Commencement: 9 December 1987.

under the authority of the President of the Constituent Assembly in accordance with a resolution adopted by that Assembly.

There had been a general demand for the publication of an authoritative text of the Constitution in Hindi incorporating therein all the subsequent amendments. It was also imperative to have an authoritative text of the Constitution for facilitating its use in the legal process. Any Hindi version of the Constitution should not only conform to the Hindi translation published by the Constituent Assembly, but should also be in conformity with the language, style and terminology adopted in the authoritative texts of Central Acts in Hindi. The Bill proposed to amend the Constitution so as to empower the President of India to publish under his authority the translation of the Constitution in Hindi 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. The President would also be authorised to publish the translation in Hindi of every amendment of the Constitution made in English.

#### *Legislative History*

The Constitution (Fifty-eighth Amendment) Act, 1987, when introduced in the Lok Sabha on 27 February 1987, was titled as the Constitution (Fifty-sixth Amendment) Bill, 1987.<sup>400</sup> The Bill sought to: (i) amend the heading of Part XXII and (ii) insert new article 394A in the Constitution.

The Bill was considered by the Lok Sabha on 24 November 1987 and, as amended, passed on the same day<sup>401</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 26 November 1987<sup>402</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with formal amendment replacing the word “Fifty-sixth” by the word “Fifty-eighth”<sup>403</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 26 November 1987<sup>404</sup>.

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<sup>400</sup> *L.S. Deb.*, 27 February 1987, c. 251.

<sup>401</sup> *Ibid.*, 24 November 1987, c. 471.

<sup>402</sup> *R.S. Deb.*, 26 November 1987, c. 279.

<sup>403</sup> *L.S. Deb.*, 24 November 1987, c. 456.

<sup>404</sup> *R.S. Deb.*, 26 November 1987, c. 475.

*Important Provisions of the Act*

New article 394A has been inserted in the Constitution authorising the President to cause publication of: (i) the translation of the Constitution in Hindi, 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 the Constitution and (ii) the translation in Hindi of every amendment of the Constitution made in the English language. Such translation of the Constitution and amendments thereof shall be deemed to be the authoritative text in the Hindi language for all purposes. (Section 3)

## LIX

### THE CONSTITUTION (FIFTY-NINTH AMENDMENT) ACT, 1988<sup>405</sup>

*Objects and Reasons of the Bill*

Under article 356(5) of the Constitution, a resolution approving the continuance in force of Presidential Proclamation issued under clause (1) of that article beyond a period of one year could not be passed by either of the two Houses of Parliament unless the conditions specified in that clause were met. The one-year period in the case of the Proclamation made with respect to the State of Punjab was due to expire on 10 May 1988. In view of the continued disturbed situation in Punjab, escalation in the activities of terrorists and anti-national forces resulting in the death of innocent men, women and children, and of the fact that the Punjab State Legislative Assembly had to be dissolved because of the virtual impossibility of forming a popular Government in the prevailing circumstances, the continuance in force of the said Proclamation beyond the period of one year might be necessary in

<sup>405</sup> Bill No. 14 of 1988; Introduced in Rajya Sabha by the Minister of Home Affairs, Shri Buta Singh on 14 March 1988; Debated, Rajya Sabha: 14 and 15 March 1988; Lok Sabha: 22 and 23 March 1988; President's Assent: 30 March 1988; Date of Gazette Notification: 30 March 1988; Date of Commencement: 30 March 1988.

Punjab. Article 356(5) of the Constitution was, therefore, sought to be amended so as to facilitate the extension of the said Proclamation, if necessary, up to a period of three years as permissible under clause (4) of that article.

The continuance of the Proclamation after 10 May 1988 might not, it was felt, be effective as terrorist activities had been on the increase. It might be necessary to invoke the provisions of article 352 of the Constitution to declare a partial Emergency either in the whole of the State of Punjab or in particular districts of that State. In such a situation, the expression "armed rebellion" included in that article as one of the grounds for declaration of Emergency (which alone could be resorted to in the case of an Internal Emergency) might not be appropriate in the prevailing situation in Punjab to declare a Proclamation in that State. It was, therefore, felt that article 352 may be suitably amended in its application to the State of Punjab to include "internal disturbance" as one of the grounds that the integrity of India is threatened by internal disturbance in any part of the territory of India, so as to facilitate the taking of action under that article if it becomes necessary at a future date. The expression "internal disturbance" was one of the grounds included in that article from the commencement of the Constitution till it was amended by the Constitution (Forty-fourth Amendment) Act, 1978. Consequentially, articles 358 and 359 were also proposed to be amended so as to provide for the automatic suspension of article 19 of the Constitution and the issuing of an order by the President suspending the operation of any of the other provisions contained in Part III (except article 20) under article 359, if and when a Proclamation of Emergency on the ground in internal disturbance is issued in relation to the whole or any part of the State of Punjab.

As the amendments were considered necessary only for the purpose of curbing the terrorist activities in the State of Punjab more effectively, the powers that shall be conferred by these amendments would not be resorted to for any period beyond what was absolutely necessary for achieving the aforesaid object.

The Bill sought to achieve the aforesaid objects.

*Legislative History*

The Constitution (Fifty-ninth Amendment) Bill, 1988 was introduced in the Rajya Sabha on 14 March 1988<sup>406</sup>. The Bill sought to: (i) amend article 356 and (ii) insert a new article 359A in the Constitution.

The Bill was considered by the Rajya Sabha on 15 March 1988 and, as amended, passed on the same day<sup>407</sup>. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 23 March 1988<sup>408</sup>.

During consideration of clause 3 of the Bill as introduced in the Rajya Sabha, amendments to following provisions were moved<sup>409</sup> by Shri Buta Singh, which in relation to the State of Punjab sought to:

(i) substitute the following for the opening portion of clause (1) of article 352:

“If the President is satisfied that a grave emergency exists whereby:

(a) the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion; or

(b) the integrity of India is threatened by internal disturbance in any part of the territory of India,

he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.”;

(ii) insert in the *Explanation* to article 352, after the words, “armed rebellion” the words “or that the integrity of India is threatened by internal disturbances in any part of the territory of India.”; and

(iii) insert in article 358(1), after the words “or by external aggression”, the words “or by armed rebellion, or that the integrity of India is threatened by internal disturbance in any part of the territory of India.”

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<sup>406</sup> R.S. Deb., 14 March 1988, c. 301.

<sup>407</sup> Ibid., 15 March 1988, c. 257.

<sup>408</sup> L.S. Deb., 23 March 1988, c. 611.

<sup>409</sup> R.S. Deb., 15 March 1988, cc. 233-234.

To make it more clear that the Bill applies only to the State of Punjab, by way of abundant caution the amendments proposed to replace the words “any part of the territory of India” by the words “the whole or any part of the territory of Punjab”, in all the three places where these words occur. The word “India” was proposed to be replaced by the word “Punjab” for the purpose of specifying the territory in respect of which the declaration could be made by the President under the new article 359A. The amendments were accepted by the House<sup>410</sup>. Clause 3 of the Bill, as so amended, was adopted by the Rajya Sabha and Lok Sabha on 15 and 23 March 1988, respectively<sup>411</sup>.

#### *Important Provisions of the Act*

Section 2 has amended article 356 of the Constitution to exclude the Proclamation issued under clause (1) of that article on 11 May 1987 with respect of the State of Punjab from the purview of clause (5) thereof.

New article 359A inserted in the Constitution has provided for the application of emergency provisions of Part XVIII to the State of Punjab with modification in articles 352, 358 and 359. Modifications in articles 352 and 358 included threat to the integrity of India by internal disturbance in the whole or any part of the territory of Punjab as one of the grounds for Proclamation of Emergency by the President in respect of the whole of Punjab or of such part of the territory as may be specified, and consequent suspension of provisions of article 19 during the operation of such Proclamation. Modification of article 359 in its application to the State of Punjab provided for the suspension of the right to move any Court for the enforcement of such of the Fundamental Rights conferred by Part III (except article 20) as may be declared by the President by order. New article 359A shall cease to operate on the expiry of a period of two years from the commencement of this Act. (Section 3)

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<sup>410</sup> *Ibid.*, c. 238.

<sup>411</sup> *Ibid.*, c. 244; *L.S. Deb.*, 23 March 1988, c. 562.

## LX

### THE CONSTITUTION (SIXTIETH AMENDMENT) ACT, 1988<sup>412</sup>

#### *Objects and Reasons of the Bill*

Clause (2) of article 276 of the Constitution specifies that 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 a State by way of taxes on professions, trades, callings and employments leviable by a State Legislature under clause (1) of that article shall not exceed two hundred and fifty rupees per annum. The proviso to that clause, however, enables the continuance of the levy of such tax at a rate exceeding two hundred and fifty rupees per annum in any State, municipality, etc., if in the financial year immediately preceding the commencement of the Constitution any such tax exceeding that rate was in force in that State, municipality, etc.

Some of the State Governments have represented that this ceiling of two hundred and fifty rupees which was fixed in 1949, needs to be revised upwards taking into consideration the price rise and other factors. It is also pointed out that the profession tax has, at present, become almost regressive because of the ceiling since even people with high salaries have to pay this tax at only the maximum amount of two hundred and fifty rupees per annum. The upward revision of the profession tax may help the State Government in raising additional resources. Accordingly, it was proposed to amend clause (2) of article 276 of the Constitution to increase the ceiling of the profession tax from two hundred and fifty rupees per annum to two thousand and five hundred rupees per person per annum. As the proviso to this clause is no longer relevant, it may be omitted.

The Bill sought to achieve the above objects.

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<sup>412</sup> Bill No. 100 of 1988; Introduced in Lok Sabha by the Minister of State in the Department of Revenue in the Ministry of Finance, Shri A.K. Panja on 22 August 1988; Debated, Lok Sabha: 30 November 1988; Rajya Sabha: 5 and 6 December 1988; President's Assent: 20 December 1988; Date of Gazette Notification: 20 December 1988; Date of Commencement : 20 December 1988.

*Legislative History*

The Constitution (Sixtieth Amendment) Bill, 1988, was introduced in the Lok Sabha on 22 August 1988<sup>413</sup>. The Bill sought to amend article 276 of the Constitution relating to taxes on professions, trades, callings and employments.

The Bill was considered by the Lok Sabha on 30 November 1988 and passed on the same day in the original form<sup>414</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 6 December 1988<sup>415</sup>.

*Important Provisions of the Act*

Clause (2) of article 276 of the Constitution has been amended to increase the ceiling of tax on professions, trades, callings and employments from two hundred and fifty rupees per person per annum to two thousand and five hundred rupees per person per annum. (Section 2)

The proviso to clause (2) of article 276 of the Constitution has been omitted. (Section 2)

## LXI

### THE CONSTITUTION (SIXTY-FIRST AMENDMENT) ACT, 1988<sup>416</sup>

*Objects and Reasons of the Bill*

Article 326 of the Constitution provides that the elections to the House of the People and to the Legislative Assembly of every State

<sup>413</sup> L.S. Deb., 22 August 1988, c. 254.

<sup>414</sup> Ibid., 30 November 1988, c. 566.

<sup>415</sup> R.S. Deb., 6 December 1988, c. 230.

<sup>416</sup> Bill No. 129 of 1988; Introduced as the Constitution (Sixty-second Amendment) Bill in Lok Sabha by the Minister of Water Resources, Shri B. Shankaranand on 13 December 1988; Debated, Lok Sabha: 14 and 15 December 1988; Rajya Sabha: 16, 19 and 20 December 1988; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Orissa, Rajasthan, Sikkim, Uttar Pradesh and West Bengal; President's Assent: 28 March 1989; Date of Gazette Notification: 28 March 1989; Date of Commencement: 28 March 1989.

shall be on the basis of adult suffrage, that is to say, a person should not be less than 21 years of age. It has been found that many of the countries have specified 18 years as the voting age. In our country, some of the State Governments have adopted 18 years of age for elections to the local authorities. The present-day youth are literate, enlightened and politically conscious and the lowering of the voting age would provide the unrepresented youth of the country an opportunity to give vent to their feelings and help them become a part of the political process. It was, therefore, proposed to reduce the voting age from 21 years to 18 years.

The Bill sought to achieve the above object.

#### *Legislative History*

The Constitution (Sixty-first Amendment) Act, 1988, when introduced in the Lok Sabha on 13 December 1988, was titled as the Constitution (Sixty-second Amendment) Bill, 1988<sup>417</sup>. The Bill sought to amend article 326 of the Constitution relating to election to the House of the People and to the Legislative Assemblies of States based on adult suffrage.

The Bill was considered by the Lok Sabha on 15 December 1988 and, as amended, passed on the same day<sup>418</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 20 December 1988<sup>419</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Sixty-second”, by the word “Sixty-first”<sup>420</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 20 December 1988<sup>421</sup>.

#### *Important Provisions of the Act*

Article 326 of the Constitution has been amended to reduce the voting age from twenty-one years to eighteen years. (Section 2)

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<sup>417</sup> L.S. Deb., 13 December 1988, c. 20.

<sup>418</sup> Ibid., 15 December 1988, c. 175.

<sup>419</sup> R.S. Deb., 20 December 1988, c. 67.

<sup>420</sup> L.S. Deb., 15 December 1988, c. 141.

<sup>421</sup> R.S. Deb., 20 December 1988, c. 62.

**LXII****THE CONSTITUTION (SIXTY-SECOND AMENDMENT)  
ACT, 1989<sup>422</sup>***Objects and Reasons of the Bill*

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the Lok Sabha and in the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of forty years from the commencement of the Constitution. Although the Scheduled Castes and the Scheduled Tribes have made some progress in the last forty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members, have not ceased to exist. It was, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indians by nomination for a further period of ten years.

The Bill sought to achieve the above object.

*Legislative History*

The Constitution (Sixty-second Amendment) Bill, 1989 was introduced in the Rajya Sabha on 20 December 1989<sup>423</sup>. The Bill sought to amend article 334 of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes, and the representation of the Anglo-Indian community by nomination in the Lok Sabha and in the Legislative Assemblies of the State.

<sup>422</sup> Bill No. 26 of 1989; Introduced in Rajya Sabha by the Minister of Labour and Welfare, Shri Ram Vilas Paswan on 20 December 1989; Debated, Rajya Sabha: 21 December 1989; Lok Sabha: 22 and 26 December 1989; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Meghalaya, Mizoram, Nagaland, Orissa, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal; President's Assent: 25 January 1990; Date of Gazette Notification: 25 January 1990; Date of Commencement: 20 December 1989.

<sup>423</sup> R.S. Deb., 20 December 1989, c. 32.

The Bill was considered by the Rajya Sabha on 21 December 1989 and passed on the same day<sup>424</sup>. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 26 December 1989<sup>425</sup>.

*Important Provisions of the Act*

The Act has amended article 334 of the Constitution to provide for the continuance of the provisions with regard to the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assembly of the States, and the representation of the Anglo-Indian community by nomination in the House of the People and in the Legislative Assembly of the States for another ten years. (Section 2)

## LXIII

### THE CONSTITUTION (SIXTY-THIRD AMENDMENT) ACT, 1989<sup>426</sup>

*Objects and Reasons of the Bill*

The Constitution (Fifty-ninth Amendment) Act, 1988 was passed in March 1988, with a view to carrying out certain changes in regard to making a Proclamation of Emergency in Punjab and to the duration of President's rule in that State.

On reconsideration, the Government was of the view that there was no need for the special powers in regard to the Proclamation of Emergency in Punjab as envisaged in the amendment. It was also considered that the amendment to article 356 made by the said Act was no longer needed and, therefore, the aforesaid Act should be repealed.

As regards President's Proclamation issued on 11 May 1987 under clause (1) of article 356 of the Constitution, this had been approved by both the Houses of Parliament in October 1989.

<sup>424</sup> *Ibid.*, 21 December 1989, c. 161.

<sup>425</sup> *L.S. Deb.*, 26 December 1989, c. 252.

<sup>426</sup> Bill No. 100 of 1989; Introduced in Lok Sabha by the Minister of Home Affairs, Shri Mufti Mohammad Sayeed on 29 December 1989; Debated, Lok Sabha: 29 December 1989; Rajya Sabha: 29 December 1989; President's Assent: 6 January 1990; Date of Gazette Notification: 6 January 1990; Date of Commencement: 6 January 1990.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Sixty-third Amendment) Bill, 1989 was introduced in the Lok Sabha on 29 December 1989<sup>427</sup>. The Bill sought to repeal the Constitution (Fifty-ninth Amendment) Act, 1988 making amendment to article 356 and insertion of new article 359A in the Constitution.

The Bill was considered by the Lok Sabha on 29 December 1989 and as amended, passed on the same day<sup>428</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 29 December 1989<sup>429</sup>.

Clauses 2 and 3 of the Bill were adopted in the original form by the Lok Sabha and the Rajya Sabha<sup>430</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with an amendment replacing the words “It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint” by the words “It shall come into force with immediate effect”<sup>431</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha<sup>432</sup>.

#### *Important Provisions of the Act*

The Act shall come into force with immediate effect. (Section 1)

Section 2 has amended article 356 of the Constitution to omit the proviso to clause (5) of the article which had provided for exclusion from the purview of clause (1) of that article, the Proclamation issued on 11 May 1987 with respect to the State of Punjab.

Article 359A which was inserted in the Constitution by the Constitution (Fifty-ninth Amendment) Act, 1988 to provide for

<sup>427</sup> L.S. Deb., 29 December 1989, c. 243.

<sup>428</sup> Ibid., c. 346.

<sup>429</sup> R.S. Deb., 29 December 1989, c. 383.

<sup>430</sup> L.S. Deb., 29 December 1989, c. 316; R.S. Deb., 29 December 1989, cc. 374, 377.

<sup>431</sup> L.S. Deb., 29 December 1989, c. 331.

<sup>432</sup> R.S. Deb., 29 December 1989, c. 377.

Proclamation of Emergency on the ground of threat to the integrity of India by internal disturbance in the State of Punjab or a part thereof, has been omitted. (Section 3)

## LXIV

### THE CONSTITUTION (SIXTY-FOURTH AMENDMENT) ACT, 1990<sup>433</sup>

#### *Objects and Reasons of the Bill*

Clause (4) of article 356 of the Constitution provides that no Proclamation issued under article 356 and approved by both the Houses of Parliament shall remain in force for more than three years. However, under clause (5) of the said article, a resolution approving the continuance in force of a Proclamation issued under clause (1) of that article beyond a period of one year cannot be passed by either House of Parliament unless the two conditions relating to a Proclamation of Emergency being in operation in the whole or any part of the State and the certificate by Election Commission that the continuation of the Proclamation issued under clause (1) is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State as specified in that clause are met. The three year period in the case of Proclamation issued on 11 May 1987 with respect to the State of Punjab would be over on 10 May 1990 and the said two conditions were also not fulfilled. The prevailing circumstances in the State did not hold out good prospects for free and peaceful elections to the State Legislative Assembly. The representatives of various political parties who attended the all-Party Meeting convened by the Governor of Punjab at Chandigarh were also of the view that congenial conditions should first be created before holding the elections to the State Legislative Assembly. Clauses (4) and (5) of article 356 of the Constitution were, therefore, proposed to be amended to facilitate the

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<sup>433</sup> Bill No. 49 of 1990; Introduced as the Constitution (Sixty-fifth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri Mufti Mohammad Sayeed on 4 April 1990; Debated, Lok Sabha: 5 April 1990; Rajya Sabha: 10 April 1990; President's Assent: 16 April 1990; Date of Gazette Notification: 16 April 1990; Date of Commencement: 16 April 1990.

extension of the said Proclamation upto a total period of three years and six months in relation to the State of Punjab.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Sixty-fourth Amendment) Act, 1990, when introduced in the Lok Sabha on 4 April 1990 was titled as the Constitution (Sixty-fifth Amendment) Bill, 1990<sup>434</sup>. The Bill sought to amend article 356 of the Constitution to provide that the Proclamation issued by the President thereunder with respect to the State of Punjab shall remain in force for a period of three years and months from the date of the issue of Proclamation.

The Bill was considered by the Lok Sabha on 5 April 1990 and, as amended, passed on the same day<sup>435</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 10 April 1990<sup>436</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Sixty-fifth” by the word “Sixty-fourth”<sup>437</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 10 April 1990<sup>438</sup>.

#### *Important Provisions of the Act*

A new proviso has been inserted in clause (4) of article 356 of the Constitution providing that the Proclamation issued by the President under clause (1) on 11 May 1987 with respect to the State of Punjab has been given extension of another six months and such Proclamation shall remain in force for a period of three years and six months from the date of issue of the Proclamation. (Section 2)

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<sup>434</sup> *L.S. Deb.*, 4 April 1970, c. 964.

<sup>435</sup> *Ibid.*, 5 April 1990, c. 599.

<sup>436</sup> *R.S. Deb.*, 10 April 1990, c. 85.

<sup>437</sup> *L.S. Deb.*, 5 April 1990, c. 584.

<sup>438</sup> *R.S. Deb.*, 10 April 1990, c. 80.

Article 356 of the Constitution has been further amended so as to exclude the Proclamation issued under clause (1) of that article on 11 May 1987 with respect to the State of Punjab from the purview of clause (5). Clause (5) of article 356 requires that a resolution with respect to the continuance in force of a Proclamation 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 Proclamation of Emergency is in operation at the time of passing of such resolution and the Election Commission certifies that the continuance in force of the Proclamation during the period specified in such resolution is necessary on account of difficulties in holding election to the Legislative Assembly of the State concerned. (Section 2)

## LXV

### THE CONSTITUTION (SIXTY-FIFTH AMENDMENT) ACT, 1990<sup>439</sup>

#### *Objects and Reasons of the Bill*

Article 338 of the Constitution provides for a Special Officer for the Scheduled Castes and Scheduled Tribes to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to report to the President on their working. It was felt that a high level five-member Commission under article 338 will be a more effective arrangement in respect of the constitutional safeguards for the Scheduled Castes and Scheduled Tribes than a single Special Officer as at present. It was also felt that necessary to elaborate the functions of the said Commission so as to cover the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes and to entrust to the Commission such

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<sup>439</sup> Bill No. 98 of 1990; Introduced as the Constitution (Sixty-eighth Amendment) Bill in Lok Sabha by the Minister of Labour and Welfare, Shri Ram Vilas Paswan on 23 May 1990; Debated, Lok Sabha: 28, 29 and 30 May 1990; Rajya Sabha: 31 May 1990; President's Assent: 7 June 1990; Date of Gazette Notification: 8 June 1990; Date of Commencement: 12 March 1992.

other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and the Scheduled Tribes as the President may, subject to any law made by Parliament, by rule specify. It was also felt that the reports of the said Commission shall be laid before the Parliament and the Legislatures of the States.

The Bill sought to achieve the aforesaid objects.

#### *Legislative History*

The Constitution (Sixty-fifth Amendment) Act, 1990, when introduced in the Lok Sabha on 23 May 1990, was titled as the Constitution (Sixty-eighth Amendment) Bill, 1990<sup>440</sup>. The Bill sought to amend article 338 of the Constitution for a more effective arrangement in respect of the constitutional safeguards for Scheduled Castes and Scheduled Tribes.

The Bill was considered by the Lok Sabha on 28, 29 and 30 May 1990 and, as amended, passed on the same day<sup>441</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 31 May 1990<sup>442</sup>.

During consideration of clause 2 of the Bill as introduced in the Lok Sabha, following amendments were moved<sup>443</sup> by Shri Ram Vilas Paswan, seeking:

- (i) substitution of the word “five” for the word “three” in clause 2(b)(2) relating to the constitution of the National Commission for the Scheduled Castes and Scheduled Tribes;
- (ii) substitution of the words “inquire into” for the word “examine” in sub-clause 5(b) of clause 2(b);
- (iii) insertion of the following new sub-clause in clause 2(b)(5):
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

<sup>440</sup> *L.S. Deb.*, 23 May 1990, c. 424.

<sup>441</sup> *Ibid.*, 30 May 1990, c. 247.

<sup>442</sup> *R.S. Deb.*, 31 May 1990, c. 228.

<sup>443</sup> *L.S. Deb.*, 30 May 1990, cc. 135-136.

(iv) insertion of the following new sub-clauses in clause 2(b):

(8) The Commission shall, while investigating any matter referred to in sub-clause (9) 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 and Scheduled Tribes; and

(v) substitution of “(10)” for “(8)” in clause 2(c).

The amendments were accepted by the House. Clause 2 of the Bill, as so amended, was adopted by the Lok Sabha and the Rajya Sabha on 30 and 31 May 1999, respectively<sup>444</sup>.

Clause 1 of the Bill was adopted<sup>445</sup> by the Lok Sabha with a formal amendment replacing the word “Sixty-eighth” by the words “Sixty-fifth”. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 31 May 1999<sup>446</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

<sup>444</sup> *Ibid.*, c. 216; *R.S. Deb.*, 31 May 1990, c. 219.

<sup>445</sup> *L.S. Deb.*, 30 May 1990, c. 231.

<sup>446</sup> *R.S. Deb.*, 31 May 1990, c. 224.

In the marginal heading of article 338 of the Constitution, for the words “Special for Scheduled Castes and Scheduled Tribes” the words “National Commission for Scheduled Castes and Scheduled Tribes” shall be substituted. (Section 2)

In article 338 of the Constitution, for clauses (1) and (2) of the said article, clauses (1) to (9) have been substituted. New clause (1) provides that there shall be a Commission for the Scheduled Castes and the Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes (hereinafter referred to as the Commission). Clauses (2) and (3) provide that the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members, and they shall be appointed by the President by a warrant under his hand and seal. The conditions of service and terms of office of the Chairperson, Vice-Chairperson and other Members shall be such as the President may, by rule, determine. Clause (4) empowers the Commission to regulate its own procedure. Clause (5) provides that the duty of the Commission shall *inter alia* be: to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and the Scheduled Tribes; to examine specific complaints with respect to the deprivation of their rights and safeguards; to participate and advise on the planning process of their socio-economic development; to present an annual report to the President upon the working of these safeguards and to make recommendations in the report as to the measures to be taken by the Union or any State for effective implementation of the safeguards and other measures; and to discharge other functions in relation to protection, welfare, development and advancement of the Scheduled Castes and the Scheduled Tribes as the President may, by rule, specify. Clause (6) provides that the President shall cause all such reports to be laid before each House of Parliament. Where any such report 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 the same to be laid before the Legislature of the State. The Commission shall have all the powers of a civil court while investigating any matter relating to safeguards of Scheduled Castes and Scheduled Tribes or inquiring into any complaint with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes. The Union and every State Government shall consult the Commission on all major policy matters affecting the Scheduled Castes and the Scheduled Tribes. (Section 2)

## LXVI

### THE CONSTITUTION (SIXTY-SIXTH AMENDMENT) ACT, 1990<sup>447</sup>

#### *Objects and Reasons of the Bill*

Article 31B of the Constitution confers on the enactments included in the Ninth Schedule to the Constitution, immunity from legal challenge on the ground that they violate the Fundamental Rights enshrined in Part III of the Constitution.

In the past, whenever it was found that progressive legislation, conceived in the interest of the public, was imperilled by litigation, recourse was taken to the Ninth Schedule. Several State enactments relating to land reforms and ceiling on agricultural land holdings had been included in the Ninth Schedule. Since the Government was committed to give importance to land reforms, it was decided to include all land reform laws in the Ninth Schedule so as to save them from being challenged before the Courts. The State Governments of Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Uttar Pradesh, West Bengal, Tamil Nadu and the administration of the Union territory of Pondicherry have suggested the inclusion of some of their Acts relating to land reforms to the Ninth Schedule.

Since the amendments to Acts which were already placed in the Ninth Schedule were not automatically immune from legal challenge, some amending Acts proposed to be included in the Ninth Schedule, were also examined. In order to ensure that implementation of these Acts is not adversely affected by litigation, it was proposed to include them in the Ninth Schedule.

The Bill sought to achieve the above objects.

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<sup>447</sup> Bill No. 53 of 1990; Introduced in Lok Sabha by the Deputy Prime Minister and Minister of Agriculture, Shri Devi Lal on 19 April 1990; Debated, Lok Sabha: 29 and 30 May, 1990; Rajya Sabha: 1 June 1990; President's Assent: 7 June 1990; Date of Gazette Notification: 8 June 1990; Date of Commencement: 7 June 1990.

*Legislative History*

The Constitution (Sixty-sixth Amendment) Bill, 1990 was introduced in the Lok Sabha on 19 April 1990<sup>448</sup>. The Bill sought to amend the Ninth Schedule to the Constitution to include more State enactments relating to land reforms.

The Bill was considered by the Lok Sabha on 29 and 30 May 1990 and, as amended, passed on the same day<sup>449</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 1 June 1990<sup>450</sup>.

During consideration of clause 2 of the Bill as introduced in the Lok Sabha, an amendment to entry No. 208 was moved<sup>451</sup> by Shri Upendra Nath Verma, Minister of State for Rural Development in the Ministry of Agriculture, to omit the following words, figures and brackets:

“(Chapter VII-A-Section 49AA to 49Q)”

The amendment was accepted by the House. Clause 2 of the Bill, as so amended, was adopted by the Lok Sabha and Rajya Sabha on 30 May and 1 June 1990, respectively<sup>452</sup>.

*Important Provisions of the Act*

The Act has added to the Ninth Schedule to the Constitution, 55 additional State enactments (entries No. 203 to 257) relating to land reforms with a view to clarifying that the said enactments will not be deemed to be void on ground that the same were inconsistent with any of the provisions of Part III of the Constitution relating to Fundamental Rights. (Section 2)

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<sup>448</sup> L.S. Deb., 19 April 1990, c. 442.

<sup>449</sup> Ibid., 30 May 1990, c. 330.

<sup>450</sup> R.S. Deb., 1 June 1990, c. 125.

<sup>451</sup> L.S. Deb., 30 May 1990, c. 265.

<sup>452</sup> Ibid., c. 282; R.S. Deb., 1 June 1990, c. 116.

## LXVII

### THE CONSTITUTION (SIXTY-SEVENTH AMENDMENT) ACT, 1990<sup>453</sup>

#### *Objects and Reasons of the Bill*

Clause (4) of article 356 of the Constitution provides that no Proclamation issued under that article and approved by both the Houses of Parliament shall remain in force for more than three years. However, under clause (5) of the said article, a resolution approving the continuance in force of a Proclamation issued under clause (1) of that article beyond a period of one year cannot be passed by either House of Parliament unless the two conditions relating to a Proclamation of Emergency being in operation in the whole or any part of the State and the certificate by the Election Commission that the continuation of the Proclamation issued under clause (1) is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State as specified in that clause are met. The three-year period in the case of Proclamation issued on 11 May 1987 with respect to the State of Punjab was extended to three years and six months by the Constitution (Sixty-fourth Amendment) Act, 1990 and clause (5) of article 356 was also suitably amended by that Act in the expectation that it would be possible to hold election to the Legislative Assembly of that State. The prevailing circumstances in the State, however, still did not hold out prospects for free and peaceful elections to the State Legislative Assembly. Clause (4) of the article 356 of the Constitution was, therefore, proposed to be amended so as to facilitate the extension of the said Proclamation upto a total period of four years in relation to the State of Punjab.

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<sup>453</sup> Bill No. 158 of 1990; Introduced as the Constitution (Seventy-sixth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri Mufti Mohammed Sayeed on 4 October 1990; Debated, Lok Sabha: 4 October 1990; Rajya Sabha: 4 October 1990; President's Assent: 4 October 1990; Date of Gazette Notification: 4 October 1990; Date of Commencement: 4 October 1990.

The Bill sought to achieve the above object.

#### *Legislative History*

The Constitution (Sixty-seventh Amendment) Act, 1990, when introduced in the Lok Sabha on 4 October 1990, was titled as the Constitution (Seventy-sixth Amendment) Bill, 1990<sup>454</sup>. The Bill sought to amend clause 4 of article 356 of the Constitution to provide for extension of Proclamation issued by the President on 11 May 1987 with respect to the State of Punjab for a further period of six months, *i.e.* upto a total period of four years.

The Bill was considered by the Lok Sabha on 4 October 1990 and, as amended, passed on the same day<sup>455</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 4 October 1990<sup>456</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Seventy-sixth” by the word “Sixty-seventh<sup>457</sup>”. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 4 October 1990<sup>458</sup>.

#### *Important Provisions of the Act*

Proviso to clause (4) of article 356 of the Constitution has been amended to extend the Proclamation issued by the President under clause (1) on 11 May 1987 with respect to the State of Punjab by another six-months, *i.e.* upto a total period of four years. (Section 2)

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<sup>454</sup> *L.S. Deb.*, 4 October 1990, c. 11.

<sup>455</sup> *Ibid.*, c. 59.

<sup>456</sup> *R.S. Deb.*, 4 October 1990, c. 212.

<sup>457</sup> *L.S. Deb.*, 4 October 1990, c. 39.

<sup>458</sup> *R.S. Deb.*, 4 October 1990, c. 203.

## LXVIII

### THE CONSTITUTION (SIXTY-EIGHTH AMENDMENT) ACT, 1991<sup>459</sup>

#### *Objects and Reasons of the Bill*

Clause (4) of article 356 of the Constitution provides that no Proclamation issued under that article and approved by both the Houses of Parliament shall remain in force for more than three years. However, under clause (5) of the said article, a resolution approving the continuance in force of a Proclamation issued under clause (1) of that article beyond a period of one year cannot be passed by either House of Parliament unless the two conditions relating to a Proclamation of Emergency being in operation in the whole or any part of the State and the certificate by the Election Commission that the continuation of the Proclamation issued under clause (1) is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State as specified in that clause are met. The three-year period in the case of Proclamation issued on 11 May 1987 with respect to the State of Punjab was extended to three years and six months by the Constitution (Sixty-fourth Amendment) Act, 1990 and clause (5) of article 356 was also suitably amended by that Act expecting that it would be possible to hold elections to the Legislative Assembly of that State. In October 1990, it was felt that it was not conducive to hold free and fair elections to the Punjab State Legislative Assembly. Therefore, clause (4) of the article 356 was again amended by the Constitution (Sixty-seventh Amendment) Act, 1990 to enable extension of President's Proclamation issued on 11 May 1987 for a total period of four years.

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<sup>459</sup> Bill No. 48 of 1991; Introduced as the Constitution (Seventy-fifth Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Home Affairs and Minister of State in the Ministry of Information and Broadcasting, Shri Subodh Kant Sahay on 11 March 1991; Debated, Lok Sabha: 11 March 1991; Rajya Sabha: 12 March 1991; President's Assent: 12 March 1991; Date of Gazette Notification: 12 March 1991; Date of Commencement: 12 March 1991.

Despite pressure from the security forces, the terrorist violence continued in Punjab. Therefore, the then prevailing circumstances did not hold out prospects for fair, free and peaceful elections to the Legislative Assembly of Punjab. Clause (4) of article 356 of the Constitution was, therefore, proposed to be amended so as to facilitate the extension of the said proclamation upto a total period of five years in relation to the State of Punjab.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Sixty-eighth Amendment) Act, 1991, when introduced in the Lok Sabha on 11 March 1991, was titled as the Constitution (Seventy-fifth Amendment) Bill, 1991<sup>460</sup>. The Bill sought to amend clause (4) of article 356 of the Constitution to provide for extension of Proclamation issued by the President on 11 May 1987 with respect to the State of Punjab for a further period of one year, *i.e.* upto a total period of five years.

The Bill was considered by the Lok Sabha on 11 March 1991 and, as amended, passed on the same day<sup>461</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 12 March 1991<sup>462</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Seventy-fifth” by the word “Sixty-eighth”<sup>463</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 12 March 1991<sup>464</sup>.

#### *Important Provisions of the Act*

Proviso to clause (4) of article 356 of the Constitution has been amended to extend the Proclamation issued by the President under clause (1) on 11 May 1987 with respect to the State of Punjab by one more year and such Proclamation shall remain in force for a period of five years from the date of its issue. (Section 2)

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<sup>460</sup> *L.S. Deb.*, 11 March 1991, c. 64.

<sup>461</sup> *Ibid.*, c. 362.

<sup>462</sup> *R.S. Deb.*, 12 March 1991, c. 75.

<sup>463</sup> *L.S. Deb.*, 11 March 1991, c. 347.

<sup>464</sup> *R.S. Deb.*, 12 March 1991, c. 75.

## LXIX

### THE CONSTITUTION (SIXTY-NINTH AMENDMENT) ACT, 1991<sup>465</sup>

*Objects and Reasons of the Bill*

The question of re-organisation of the administrative set-up in the Union territory of Delhi was under the consideration of the Government for some time. The Government of India appointed a Committee on 24 December 1987 to go into the various issues connected with the administration of Delhi and to recommend measures, *inter alia*, for the streamlining of the administrative set-up. The Committee went into the matter in great detail and considered the issues after holding discussions with various individuals, associations, political parties and other experts and taking into account the arrangements in the national capitals of other countries with a federal set up and also the debates in the Constituent Assembly as also the reports by earlier Committees and Commissions. After such detailed inquiry and examination, it recommended that Delhi should continue to be a Union territory and provided with a Legislative Assembly and a Council of Ministers responsible to such Assembly with appropriate powers to deal with matters of concerns to the common man. The Committee also recommended that with a view to ensuring stability and permanence, the arrangements should be incorporated in the Constitution to give the National Capital a special status among the Union territories.

The Bill sought to give effect to the above objects.

*Legislative History*

The Constitution (Sixty-ninth Amendment) Act, 1991 when introduced in the Lok Sabha on 16 December 1991, was titled as the Constitution (Seventy-fourth Amendment) Bill, 1991<sup>466</sup>. The Bill sought

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<sup>465</sup> Bill No. 203 of 1991; Introduced as the Constitution (Seventy-fourth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri S.B. Chavan on 16 December 1991; Debated, Lok Sabha: 20 December 1991; Rajya Sabha: 20 December 1991; President's Assent: 21 December 1991; Date of Gazette Notification: 21 December 1991; Date of Commencement: 1 February 1992.

<sup>466</sup> L.S. Deb., 16 December 1991, c. 471.

to insert new articles 239AA and 239AB in the Constitution providing for a new set-up for the Union territory of Delhi including provisions for establishment of a Legislative Assembly.

The Bill was considered by the Lok Sabha on 20 December 1991 and, as amended, passed on the same day<sup>467</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 20 December 1991<sup>468</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with formal amendment replacing the word “Seventy-fourth” by the word “Sixty-ninth”<sup>469</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 20 December 1991<sup>470</sup>.

During the consideration of clause 2 of the Bill as introduced in the Lok Sabha, an amendment was moved<sup>471</sup> by the Minister of Home Affairs, Shri S.B. Chavan, to substitute the words “National Capital territory of Delhi” for the words “National Capital territory”. The amendment was accepted by the House. Clause 2 of the Bill, so amended, was adopted by the Lok Sabha and Rajya Sabha on 20 December 1991<sup>472</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

Section 2 inserted two new articles 239AA and 239AB in the Constitution.

Article 239AA provides that from the date of commencement of this Constitution Amendment Act, the Union territory of Delhi shall be called the National Capital territory of Delhi (hereinafter referred to as

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<sup>467</sup> *Ibid.*, 20 December 1991, c. 919.

<sup>468</sup> *R.S. Deb.*, 20 December 1991, c. 387.

<sup>469</sup> *L.S. Deb.*, 20 December 1991, c. 867.

<sup>470</sup> *R.S. Deb.*, 20 December 1991, c. 380.

<sup>471</sup> *L.S. Deb.*, 20 December 1991, c. 869.

<sup>472</sup> *Ibid.*, c. 886; *R.S. Deb.*, 20 December 1991, cc. 380-387.

the National Capital territory) and its Administrator shall be designated as the Lieutenant Governor.

Article 239AA(2) provides for a Legislative Assembly for the National Capital territory, the seats of which shall be filled by the members chosen by direct election from territorial constituencies in the National Capital territory. The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the divisions of the National Capital territory into territorial constituencies and all other related matters of the Legislative Assembly shall be regulated by law made by Parliament.

The provisions of articles 324 to 327 and 329 relating to elections 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 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 such matters are applicable to Union territories. Further, if any provision of a law made by the Legislative Assembly is repugnant to any provision of law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, then the law made by the Parliament shall prevail and the law made by the Legislative Assembly shall be void to the extent of its repugnancy. However, if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, then such law shall prevail. Article 239AA also makes provisions for a Council of Ministers with the Chief Minister to aid and advise the Lieutenant Governor. Newly inserted article 239AB provides that if on receipt of a report from the Lieutenant Governor, the President is satisfied that a situation has arisen that the administration of the National Capital territory cannot be carried on in accordance with article 239AA or for the proper administration of the National Capital territory it is necessary or expedient to do so, then the President may, by order, suspend the operation of any provisions or all provisions of article 239AA for such period as he thinks fit and thereby make incidental or consequential provisions as may be necessary for administering the National Capital territory. (Section 2)

**LXX****THE CONSTITUTION (SEVENTIETH AMENDMENT)  
ACT, 1992<sup>473</sup>***Objects and Reasons of the Bill*

While considering the Constitution (Seventy-fourth Amendment) Bill, 1991 and the Government of National Capital territory Bill, 1991 views were expressed in both the Houses of Parliament in favour including also the elected members of the Legislative Assemblies of Union territories in the electoral college for the election of the President under article 54 of the Constitution. Article 54 relating to the election of the President provides for an electoral college consisting of only the elected members of Parliament as well as the Legislative Assemblies of the States (not Union territories). Similarly, article 55 providing for the manner of such election also speaks of Legislative Assemblies of States. Accordingly, an Explanation was sought to be inserted in article 54 to provide that the reference to "State" in articles 54 and 55 would include the National Capital territory of Delhi and the Union territory of Pondicherry for constituting the electoral college for election of the President. This would enable the elected members of the Legislative Assembly created for the Union territory of Pondicherry under the provisions of article 239A and of the proposed Legislative Assembly of the National Capital territory of Delhi under article 239AA to be included in the electoral college.

The Constitution (Seventy-fourth Amendment) Bill, 1991 which was enacted as the Constitution (Sixty-ninth Amendment) Act, 1991 received assent of the President on 21 December 1991. The said Bill,

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<sup>473</sup> Bill No. 30 of 1992; Introduced as Constitution (Seventy-sixth Amendment) Bill in Rajya Sabha by the Minister of Law, Justice and Company Affairs, Shri K. Vijaya Bhaskara Reddy on 3 April 1992; Debated, Rajya Sabha: 29 April 1992; Lok Sabha: 7 May 1992; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Arunachal Pradesh, Assam, Bihar, Goa, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Orissa, Punjab, Rajasthan, Sikkim, Uttar Pradesh and West Bengal; President's Assent: 12 August 1992; Date of Gazette Notification: 13 August 1992; Date of Commencement: Section 2 came into force on 1 June 1995; Section 3 came into force on 21 December 1991.

as originally introduced in the Lok Sabha, sought to incorporate in article 239AA, a sub-clause (b) to clause (7). This proposed sub-clause was subsequently dropped since inclusion of the said sub-clause would have necessitated ratification of the Bill by the Legislatures of not less than one-half of the States and thereby delayed the early constitution of a Legislative Assembly for the Union territory of Delhi. The said sub-clause (clause 3 of the present Bill) was sought to be inserted in the present Constitution Amendment Bill with retrospective effect, *i.e.* from 21 December 1991. Ratification by States was also proposed to be obtained for the clause along with ratification of the other clause of the Bill which sought to amend article 54.

The Bill aimed at giving effect to the above proposals.

#### *Legislative History*

The Bill of the Constitution (Seventieth Amendment) Act, 1992, when introduced in the Rajya Sabha on 3 April 1992, was titled as the Constitution (Seventy-sixth Amendment) Bill 1992<sup>474</sup>. The Bill sought to amend articles 54 and 55 of the Constitution to include the National Capital territory of Delhi and the Union territory of Pondicherry in the electoral college to elect the President of India.

The Bill was considered by the Rajya Sabha on 29 April 1992 and, as amended, passed on the same day<sup>475</sup>. The Bill was passed by the Lok Sabha on 7 May 1992<sup>476</sup>.

Clause 1 of the Bill was adopted by the Rajya Sabha with formal amendment replacing the word “Seventy-sixth” by the word “Seventy-first”<sup>477</sup>. Clause 1, as amended by Rajya Sabha, was further amended by Lok Sabha to substitute the word “Seventy-first” by the word “Seventieth”<sup>478</sup> and was adopted by the House on 7 May 1992<sup>479</sup>.

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<sup>474</sup> R.S. Deb., 3 April 1992, c. 9.

<sup>475</sup> Ibid., 29 April 1992, cc. 272-332.

<sup>476</sup> L.S. Deb., 7 May 1992, c. 434.

<sup>477</sup> R.S. Deb., 29 April 1992, c. 321.

<sup>478</sup> L.S. Deb., 7 May 1992, c. 408.

<sup>479</sup> Ibid., c. 421.

*Important Provisions of the Act*

While section 3 of the Act has been given retrospective effect from 21 December 1992, section 2 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.( Section 1)

Section 2 amended articles 54 and 55 of the Constitution of India to include the National Capital territory of Delhi and the Union territory of Pondicherry in the electoral college to elect the President of India.

A new sub-clause (b) has been inserted after sub-clause (a) of clause 7 of article 239AA of the Constitution to provide that any such law as is referred to in sub-clause (a) of clause 7 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 the Constitution. (Section 3)

**LXXI****THE CONSTITUTION (SEVENTY-FIRST AMENDMENT)  
ACT, 1992<sup>480</sup>***Objects and Reasons of the Bill*

There have been demands for inclusion of certain languages in the Eighth Schedule to the Constitution. Therefore, it was proposed to include Konkani, Manipuri and Nepali languages in the Eighth Schedule to the Constitution. The Bill sought to give effect to this decision.

The Nepali language is also known in some areas as ‘Gorkha Bhasa’. In the Census operations, other nomenclatures such as ‘Gorkhali’, ‘Gorkhi’, ‘Gurkhiya’, Khaskura’ or ‘Naipali’ have also been used.

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<sup>480</sup> Bill No. 142 of 1992; Introduced as Constitution (Seventy-eighth Amendment) Bill in Lok Sabha by the Minister of Home Affairs, Shri S.B. Chavan on 20 August 1992; Debated, Lok Sabha: 20 August 1992; Rajya Sabha: 20 August 1992; President’s Assent: 31 August 1992; Date of Gazette Notification: 1 September 1992; Date of Commencement: 31 August 1992.

### *Legislative History*

The Constitution (Seventy-first Amendment) Act, 1992, when introduced in Lok Sabha on 20 August 1992, was titled as the Constitution (Seventy-eighth Amendment) Bill, 1992<sup>481</sup>. The Bill sought the inclusion of Konkani, Manipuri and Nepali languages in the Eighth Schedule of the Constitution.

The Bill was considered by Lok Sabha on 20 August 1992 and, as amended, passed on the same day<sup>482</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 20 August 1992<sup>483</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with formal amendment replacing the word “Seventy-eighth” by the word “Seventy-first”<sup>484</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 20 August 1992<sup>485</sup>.

### *Important Provisions of the Act*

The Eighth Schedule to the Constitution has been amended to include three more languages, namely, Konkani, Manipuri and Nepali, thereby raising the total number of languages to eighteen. (Section 2)

## LXXII

### **THE CONSTITUTION (SEVENTY-SECOND AMENDMENT) ACT, 1992<sup>486</sup>**

#### *Objects and Reasons of the Bill*

For restoring peace and harmony in the areas of the State of Tripura where disturbed conditions prevailed, a Memorandum of

<sup>481</sup> L.S. Deb., 20 August 1992, c. 8.

<sup>482</sup> Ibid., c. 61.

<sup>483</sup> R.S. Deb., 20 August 1992, cc. 446-467.

<sup>484</sup> L.S. Deb., 20 August 1992, c. 47.

<sup>485</sup> R.S. Deb., 20 August 1992, c. 446.

<sup>486</sup> Bill No. 209 of 1991; Introduced as the Constitution (Seventy-fifth Amendment) Bill in the Lok Sabha by the Minister of State in the Ministry of Home Affairs, Shri M.M. Jacob on 20 December 1991; Debated, Lok Sabha: 3 December 1992; Rajya Sabha: 3 December 1992; President's Assent: 4 December 1992; Date of Gazette Notification: 4 December 1992; Date of Commencement: 5 December 1992.

Settlement was signed by the Government of India with Tripura National Volunteers on 12 August 1988. The said Memorandum provided for a greater share of tribals in the governance of the State. The said Memorandum envisaged an amendment of the Constitution to provide that notwithstanding anything contained in the Constitution, the number of seats in the Legislative Assembly of the State of Tripura reserved for Scheduled Tribes shall be such which bears to the total number of seats a proportion not less than the proportion which, as on the date of coming into force of this Constitution Amendment, the members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly. It also provided that the amendments shall not affect any representation in the existing Assembly of the State of Tripura until its dissolution.

In order to implement the said Memorandum, action was to be taken to determine the seats which were to be reserved for Scheduled Tribes in the State of Tripura. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assembly of any State is governed by the provisions of article 332 of the Constitution. Having regard to the special circumstances obtaining in the State of Tripura, it was proposed to amend article 332 of the Constitution for making a temporary provision for the determination of the number of seats reserved for Scheduled Tribes until the re-adjustment of seats on the basis of the first census after the year 2000 under article 170 of the Constitution for the State of Tripura.

The Bill sought to achieve the aforesaid objects.

#### *Legislative History*

The Constitution (Seventy-second Amendment) Act, 1992, when introduced in the Lok Sabha on 20 December 1991, was titled as the Constitution (Seventy-fifth Amendment) Bill, 1991<sup>487</sup>. The Bill sought to amend article 332 of the Constitution to provide for

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<sup>487</sup> L.S. Deb., 20 December 1991, c. 1021.

reservation of seats for the Scheduled Tribes in the Legislative Assembly of Tripura.

The Bill was considered by the Lok Sabha on 3 December 1992 and passed by the House on the same day<sup>488</sup>. The Bill, as passed by the Lok Sabha was considered and passed by the Rajya Sabha on the same day, *i.e.* 3 December 1992<sup>489</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with formal amendment replacing the word “Seventy-fifth” by the word ‘Seventy-second<sup>490</sup>. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 3 December 1992<sup>491</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new clause 3(B) has been inserted in article 332 of the Constitution to provide that until the re-adjustment of seats takes effect on the basis of the first census after the year 2000, the number of seats reserved for the Scheduled Tribes in the Legislative Assembly of Tripura 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 this Act, of members belonging to the Scheduled Tribes in the existing Legislative Assembly. However, this shall not affect any representation in the existing Legislative Assembly of Tripura until its dissolution. (Sections 2-3)

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<sup>488</sup> *Ibid.*, 3 December 1992, c. 535.

<sup>489</sup> *R.S. Deb.*, 3 December 1992, c. 450.

<sup>490</sup> *L.S. Deb.*, 3 December 1992, c. 517.

<sup>491</sup> *R.S. Deb.*, 3 December 1992, c. 460.

## LXXIII

### THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992<sup>492</sup>

#### *Objects and Reasons of the Bill*

Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersessions, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

Article 40 of the Constitution, which enshrines one of the Directive Principles of State Policy, lays down that the State shall take steps to organise village panchayats and vest them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience of the last forty years and in view of the shortcomings which have been observed, it was considered that there was an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strength to them.

Accordingly, it was proposed to add a new Part relating to Panchayats in the Constitution to provide for, among other things, Gram Sabha in village or group of villages, constitution of Panchayats at village and other level or levels, direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the

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<sup>492</sup> Bill No. 158 of 1991; Introduced as the Constitution (Seventy-second) Amendment Bill in Lok Sabha by the Minister of State for Rural Development, Shri G. Venkat Swamy on 16 September 1991; Referred to the Joint Committee; Report of the Committee Presented: 14 July 1992; Debated, Lok Sabha: 1, 2, 4, 21 and 22 December 1992; Rajya Sabha: 23 December 1992; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Haryana, Karnataka, Kerala, Maharashtra, Manipur, Mizoram, Nagaland, Orissa, Punjab, Sikkim and Tripura; President's Assent: 20 April 1993; Date of Gazette Notification: 20 April 1993; Date of Commencement: 24 April 1993.

offices of Chairpersons of Panchayats at such levels, reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chaipersons in Panchayats at each level reservation of not less than one-third of the total seats for women, fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of supersession of any Panchayat, disqualifications for membership of Panchayats, devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes, sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees, setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats, auditing of accounts of the Panchayats, powers of State Legislatures to make provisions with respect of elections to Panchayats under the superintendence, direction and control of the Chief Electoral Officer of the State, application of the provisions of the said Part to Union territories, excluding certain States and areas from the application of the provisions of the said Part, continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by Courts in electoral matters relating to Panchayats.

The Bill sought to attain the aforesaid objects.

#### *Legislative History*

The Constitution (Seventy-third Amendment) Act, 1992, when introduced in the Lok Sabha on 16 September 1991, was titled as the Constitution (Seventy-second Amendment) Bill, 1991<sup>493</sup>. The Bill sought to insert a new Part—Part IX and Eleventh Schedule in the Constitution relating to the constitution of Panchayats at the village, intermediate

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<sup>493</sup> L.S. Deb., 16 September 1992, c. 95.

and district levels. On a motion moved in the Lok Sabha on 20 December 1991 and adopted on the same day<sup>494</sup> and concurred in by the Rajya Sabha on 21 December 1991<sup>495</sup>, the Bill was referred to the Joint Committee of the Houses of Parliament.

The Report of the Joint Committee was presented to the Lok Sabha on 14 July 1992<sup>496</sup>. The Committee suggested amendments in some of the clauses of the Bill as introduced in the House. The Bill, as reported by the Joint Committee, was considered by the House on 1, 2, 4, 21 and 22 December 1992 and was passed with some modifications on 22 December 1992<sup>497</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 23 December 1992 and passed on the same day<sup>498</sup>.

Certain amendments including those recommended by the Joint Committee were moved and adopted by the House which are detailed as below:

#### *Article 243*

Clause 2 of the Bill, as introduced in the Lok Sabha, did not provide definition of “Gram Sabha” in article 243 which relates to definitions. The Joint Committee felt that the definition of the expression “Gram Sabha” which has been provided in article 243A should be provided in article 243 since all other expressions have been defined in this article. A new clause (b) relating to the definition of “Gram Sabha” was accordingly inserted in article 243 and clauses (b) to (f) were re-numbered as clauses (c) to (g) by the Joint Committee.

On 22 December 1992, an amendment was moved by the Minister of State for Rural Development, Shri G. Venkat Swamy to omit the word “revenue” from the definition of district in article 243(a)<sup>499</sup>.

Article 243, in this amended form, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>500</sup>, respectively.

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<sup>494</sup> *Ibid.*, 20 December 1991, c. 1097.

<sup>495</sup> *R.S. Deb.*, 21 December 1991, c. 24.

<sup>496</sup> *L.S. Deb.*, 14 July 1992, c. 666.

<sup>497</sup> *Ibid.*, 22 December 1992, c. 802.

<sup>498</sup> *R.S. Deb.*, 23 December 1992, c. 221.

<sup>499</sup> *L.S. Deb.*, 22 December 1992, c. 716.

<sup>500</sup> *Ibid.*, c. 735; *R.S. Deb.*, 23 December 1992, c. 217.

*Article 243A*

Article 243A of the Constitution (Seventy-second) Amendment Bill, as introduced in the House, proposed that a Gram Sabha may exercise such powers at the village level as the Legislature of a State may, by law, provide. However, the Joint Committee felt that Gram Sabha cannot exercise any powers and that, at best, it can perform certain functions, the details of which can be laid down by the Legislature of a State. The Committee, accordingly, revised this clause. When the clause came up for consideration before the House, the Minister of State for Rural Development, Shri G. Venkat Swamy, moved an amendment seeking substitution of words of clause 243A as follows:

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.

With this amendment, article 243A was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>501</sup>.

*Article 243B*

Article 243B of the Bill, as introduced, proposed that there shall be constituted in every State, Panchayats at the village level in accordance with the provisions of this Part. For the constitution of Panchayats at the intermediate level or the district level, the Legislature of a State may, by law, provide. The Joint Committee noted that there is a wide diversity in the number of tiers of Panchayats existing in different States—majority of the bigger States having three-tier system and even in that there are structural differences in States like Karnataka, Tamil Nadu and Assam. The Committee, therefore, suggested that a common and uniform three-tier system of Panchayats may be adopted throughout the country within one year from the date of commencement of this Act. During consideration of this clause by the Lok Sabha, the Minister of a State for Rural Development, Shri G. Venkat Swamy, moved an amendment seeking substitution of article 243B as follows:

1. There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

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<sup>501</sup> *Ibid.*

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2. Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population exceeding twenty lakhs.

Article 243B was adopted in this amended form by the Lok Sabha and Rajya Sabha on 22 and 23 December 1992, respectively<sup>502</sup>.

*Article 243C*

Clauses (2) and (3) of article 243C, as introduced in the Bill, provided that all the seats in a Panchayat at the village level and intermediate level shall be filled by direct elections whereas those of district level shall be filled in such manner as the State Legislature may, by law, provide. But the Joint Committee opined that directly elected persons have an inherent strength of having been elected by the people whereas indirect elections would lead to various manipulative practices. The Committee, therefore, recommended that all seats in a Panchayat at all levels should be filled in by direct elections and clause 3 which dealt with filling of seats in the Panchayats at district level be omitted. These clauses, as amended by the Joint Committee, were accepted by the Lok Sabha on 22 December 1992.

Clause (4) of article 243C relating to representation of Chairpersons of Panchayats, as introduced, reads as follows:

243(C)(4): The Legislature of a State may, by law, provide for the representation in such manner and subject to such conditions as may be specified in such law:

- (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 Panchayats at the district level;
- (b) of the Chairpersons of the Panchayats at the intermediate level, if any, in the Panchayats at the district level, if any;
- (c) the members of the House of 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.

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<sup>502</sup> *Ibid.*

The Joint Committee also agreed to clauses (a), (b) and (c) as introduced but omitted the words “or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level” from clause 4(a) of article 243C. But when this clause came up for consideration in the House, by an amendment moved by the Minister of State for Rural Development, Shri G. Venkat Swamy, the position was reversed to the one as introduced in the Bill. Clause 4 as introduced was re-numbered as clause 3 due to omission of original clause 3.

The Committee further recommended insertion of a new sub-clause (d) in article 243C(4) which provides for the representation of the members of the Council of States and the members of 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.

This sub-clause, as recommended by the Joint Committee, was accepted by the House.

The Bill, as introduced, provided that only the Chairperson and directly elected members of a Panchayat have the right to vote in the meetings of the Panchayat. The Committee, however, opined that all members of a Panchayat, irrespective of their being chosen directly or indirectly, should be given the right to vote in the meetings of the Panchayat for the smooth functioning of these bodies. The Joint Committee recommended that the provisions of clauses (5) and (6) of article 243C should be clubbed together and incorporated as clause (4). All these recommendations were approved by the Lok Sabha also.

Clause (7) of article 243C, as introduced, provided that the Chairperson of a Panchayat at the village or intermediate level shall be chosen by direct election and that of the district level shall be chosen by indirect election. The Joint Committee recommended that the Chairperson of a Panchayat at the village level only should be chosen by direct election and that of intermediate level or district level should be chosen by indirect election. During the consideration of this clause, an amendment was moved by Minister of State for Rural Development,

Shri G. Venkat Swamy, to provide “that the Chairperson of a Panchayat at the village level should be elected in such manner as the Legislature of a State may, by law, provide”. This amendment was subsequently accepted by both the Houses and clause (7) as introduced was re-numbered as clause (5).

The Joint Committee had further recommended two new clauses (6) and (7) relating to removal of Chairpersons at different levels. However, while considering these clauses in the House, an amendment was moved by Minister of State for Rural Development, Shri G. Venkat Swamy, to omit clauses (6) and (7) as recommended by the Joint Committee and the amendment was adopted by the House.

With these changes, article 243C was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>503</sup>, respectively.

#### *Article 243E*

Clause (2) of article 243E of the Bill as introduced in the Lok Sabha, reads as follows:

243E. (2) Where a Panchayat is dissolved before the expiration of its duration, an election to constitute the Panchayat must be completed as soon as may be, and in any case, before the expiration of a period of six months from the date of such 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.

Keeping in view the fact that Panchayats at any level can be superseded for indefinite periods or they can be dissolved and in certain cases elections to these institutions have not been held for long periods, the Committee recommended that the elections to these bodies must be completed before the expiration of their duration of five years. Similarly, in case a Panchayat is dissolved before the expiration of its duration, election to constitute a new Panchayat must be completed before the expiry of a period of six months from the date on which it was dissolved.

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<sup>503</sup> *Ibid.*

The Committee also felt that any State should not carry out any amendment which should have the effect of causing dissolution of Panchayats which are functioning immediately before such an amendment, before the expiration of their duration of five years.

These recommendations of the Joint Committee were adopted by the Lok Sabha on 22 December 1992 and, accordingly, two new clauses (2) and (4) were inserted and existing clause (2) was amended<sup>504</sup> and re-numbered as clause (3).

#### *Article 243F*

Article 243F of the Bill, as introduced, deals with disqualifications for membership in a Panchayat, and gives in detail the grounds for such a disqualification:

- 243F(1) A person shall be disqualified for being chosen, as and for being, a member of a Panchayat:
- (a) If he holds any office of profit under the Government or the Government of any State or a Panchayat, 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 acknowledgement or allegiance or adherence to a foreign State;
  - (e) 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;
  - (f) If he is so disqualified by or under any law made by the Legislature of the State.

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<sup>504</sup> For Text of the provision, see the Constitution (Seventy-third Amendment) Act, 1992, article 243C in Annexure (A)

(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 the Governor and his decision shall be final.

When the Joint Committee examined clause (1), it felt that sub-clauses (a) to (d) are covered by the provisions of sub-clause (e) and, therefore, recommended their omission. The Committee also opined that all persons who are of twenty-one years, should be eligible to stand for election in the Panchayat Raj Institutions. Further, all the disputes relating to disqualifications instead of being referred for the decision of the Governor should be referred for the decision of such authority and in such manner as the Legislature of a State, may by law provide.

All these recommendations were accepted by the House omitting sub-clauses (a) to (d) of clause (1) and re-numbering the sub-clauses (e) and (f) as (a) and (b), and article 243F in this amended form<sup>505</sup> was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>506</sup>, respectively.

#### *Article 243K*

As provided for in the Bill, as introduced, elections to the Panchayat should be held under the superintendence, direction and control of the Chief Electoral Officer of the State. The Joint Committee, however, recommended that it should be left to the Legislature of a State to provide for a separate authority for conducting the said elections.

But when the clause came up for consideration in the House, Minister of State for Rural Development, Shri G. Venkat Swamy moved an amendment to substitute article 243K as follows:

243K(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

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<sup>505</sup> *L.S. Deb.*, 22 December 1992, c. 735; *R.S. Deb.*, 23 December 1992, c. 217.

<sup>506</sup> For Text of the provisions, see the Constitution (Seventy-third Amendment) Act, 1992, article 243F in Annexure (A).

(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 Commissioner 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.

Article 243K was adopted in this amended form by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>507</sup>, respectively.

#### *Article 243L*

Article 243L, which deals with application of Part IX, when introduced, provided that the President may direct by public notification that the provisions of this Part shall not apply to any Union territory. The Joint Committee suggested that this enabling power of the President should only have the power to apply the said provision to any Union territory. This recommendation was accepted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>508</sup>, respectively.

#### *Article 243M*

Article 243M of the Bill deals with provisions which specify areas where Part IX shall not apply. When this article came up for

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<sup>507</sup> L.S. Deb., 22 December 1992, c. 735; R.S. Deb., 23 December 1992, c. 217.

<sup>508</sup> *Ibid.*

consideration in the House, two amendments were moved by the Minister of State for Rural Development, Shri G. Venkat Swamy. The first amendment sought to substitute clause (b) of the article 243M(2) so that Part IX should not apply to the hill areas in the State of Manipur in which District Councils exist under any law for the time being in force.

Second amendment inserted a new clause (3) in article 243M which read as:

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 a 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.

With these changes, the article was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>509</sup>, respectively.

#### *Amendment of Article 280*

When the Constitution (Seventy-third Amendment) Bill was taken up for consideration, Minister of State for Rural Development, Shri G. Venkat Swamy, moved an amendment in article 280 of the Constitution to insert a new clause (bb) in clause (3) of article 280 to empower the Central Finance Commission to make recommendation to the President, as to 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. The amendment was adopted by the Lok Sabha and Rajya Sabha on 22 and 23 December 1992<sup>510</sup>.

#### *Other Amendments*

In proposed clause 3 of the Bill, providing for addition of Eleventh Schedule, an amendment was suggested by Minister of State for Rural

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<sup>509</sup> *Ibid.*, c. 753; *Ibid.*, c. 218.

<sup>510</sup> *Ibid.*

Development to substitute the words in item 2 “and improvement and soil conservation” by the words “Land improvement, implementation of land reforms, land consolidation and soil conservation”. The Eleventh Schedule, as amended, was later adopted by the Lok Sabha on 22 December 1992<sup>511</sup> and by the Rajya Sabha on 23 December 1992<sup>512</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha on 22 December 1992<sup>513</sup> with formal amendment replacing the word “Seventy-second” by the word “Seventy-third”. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 23 December 1992<sup>514</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new Part, namely, Part IX has been inserted in the Constitution which contains article 243 and articles 243A to 243-O:

Article 243 relating to definitions has defined various terms as follows: “District” means a district in a State; “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; “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; “Panchayat” means an institution of self-government constituted under article 243B, for the rural areas; “Panchayat Area” means the territorial area of a Panchayat; “Population” means the population as ascertained at the last preceding census of which the relevant figures have been published; “Village” means a village specified by the Governor of public notification to be a village for the purposes of this Part and includes a group of villages so specified. (Section 2)

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<sup>511</sup> L.S. Deb., 22 December 1992, c. 769.

<sup>512</sup> R.S. Deb., 23 December 1992, c. 212.

<sup>513</sup> L.S. Deb., 22 December 1992, c. 785.

<sup>514</sup> R.S. Deb., 23 December 1992, c. 204.

Under article 243A, a Gram Sabha is empowered to exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Article 243B provided for the Constitution of Panchayats at the village, intermediate and district levels. However, Panchayats at the intermediate level may not be constituted in a State where population does not exceed twenty lakhs.

As per article 243C, the Legislature of a State is empowered to make provisions with regard to composition of Panchayats. It, *inter alia*, 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 be same throughout the State. The Panchayat area shall be divided into territorial constituencies in the manner as provided for and all the seats shall be filled by persons chosen by direct election. The Legislature of a State is empowered to provide for the representation of the Chairpersons of the Panchayats at the village level, the intermediate level or, in the Panchayats at the district level; 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; 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.

The Chairperson of a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide and of a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

Article 243D has provided for reservation of seats and offices of Chairpersons to the Scheduled Castes and Scheduled Tribes and women in general and those belonging to the Scheduled Castes and Scheduled Tribes.

Under article 243E, the duration of every Panchayat shall be five years.

Article 243F provided for disqualification for being chosen as and for being a member of a Panchayat, if he is disqualified for the purpose of elections to the Legislature of the State concerned. No person shall be disqualified to contest the election if he is less than twenty-five years of age, if he has attained the age of twenty-one years; if he is so disqualified by or under any law made by the Legislature of the State. The Legislature of a State has been empowered to provide, by law, such authority who shall decide any question as regards the question of disqualification of any member.

Under article 243G, the Legislature of a State may, by law, vest 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, with respect to the preparation and implementation of plans for economic development and social justice; implementation of schemes entrusted to them including on the matters mentioned in the Eleventh Schedule.

Under article 243H, the Legislature of a State is empowered to authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits; 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; provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and 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.

Under article 243-I, the Act has empowered the Governor to constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to the principles which shall govern the distribution of the taxes, duties, tolls and fees leviable by the State between the State and the Panchayats; the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats; the grants-in-aid to the

Panchayats from the Consolidated Fund of the State; the measures needed to improve the financial position of the Panchayats; any other matter referred to the Finance Commission in the interests of sound finance of the Panchayats. Further, the Legislature may provide for the composition of the Commission and the qualifications of members, and the manner of their selection. 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. The Governor shall cause every recommendation made by the Commission to be laid before the Legislature of the State. Under article 243J, the Legislature of a State is empowered to make provisions with respect to the maintenance and auditing of accounts of the Panchayats.

Under article 243K, 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, whose conditions of service and tenure shall be such as may be determined by the Governor.

Article 243L has provided that the provisions of the newly inserted Part IX of the Constitution (Seventy-third Amendment) Act, 1993 shall apply to the Union territories. However, the President is empowered to 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.

Among other things, the Act has provided under article 243-O that the Courts are barred from interfering in electoral matters such as the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purported to have been made under article 243K. Further, 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.

The Act has inserted Eleventh Schedule to the Constitution which deals with matters on which the Panchayats may be devolved with powers and responsibility by the State Legislature by law. (Section 4)

## LXXIV

### THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992<sup>515</sup>

*Objects and Reasons of the Bill*

In many States, local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged suppression and inadequate devolution of powers and functions. As a result, Urban and Local Bodies are not able to perform effectively as vibrant democratic units of self-government.

Having regard to these inadequacies, it was considered necessary that provisions relating to Urban Local Bodies be incorporated in the Constitution, particularly, for:

- (i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to:
  - (a) the functions and taxation powers; and
  - (b) arrangements for revenue sharing;
- (ii) ensuring regular conduct of elections;
- (iii) ensuring timely elections in the case of supersession; and
- (iv) providing adequate representation for the weaker sections and Scheduled Castes, Scheduled Tribes and women.

Accordingly, it was proposed to add a new Part relating to the Urban Local Bodies in the Constitution to provide for:

- (a) constitution of three types of Municipalities:

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<sup>515</sup> Bill No. 159 of 1991; Introduced as the Constitution (Seventy-third Amendment) Bill in Lok Sabha by the Minister of Urban Development, Smt. Sheila Kaul on 16 September 1991; Referred to the Joint Committee; Report of the Committee presented: 14 July 1992; Debated, Lok Sabha: 1, 2, 4, 21 and 22 December 1992; Rajya Sabha: 23 December 1992; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Haryana, Karnataka, Kerala, Maharashtra, Manipur, Mizoram, Nagaland, Orissa, Punjab, Sikkim and Tripura; President's Assent: 20 April 1993; Date of Gazette Notification: 20 April 1993; Date of Commencement: 1 June 1993.

- (i) Nagar Panchayats for areas in transition from a rural area to urban area;
- (ii) Municipal Councils for smaller urban areas;
- (iii) Municipal Corporations for larger urban areas.

The broad criteria for specifying the said areas, being provided in the proposed article 243-O;

(b) composition of Municipalities, which should be decided by the Legislature of a State, having the following features:

- (i) persons to be chosen by direct election;
- (ii) representation of Chairpersons of Committees, if any, at ward or other levels in the Municipalities;
- (iii) representation of persons having special knowledge or experience of Municipal Administration of Municipalities (without voting rights);

(c) election of Chairpersons of a Municipality in the manner specified in the State law;

(d) constitution of Committees at ward level or other level or levels within the territorial area of a Municipality as may be provided in the State law;

(e) reservation of seats in every Municipality:

- (i) for Scheduled Castes and Scheduled Tribes in proportion to their population of which not less than one-third shall be for women;

- (ii) for women which shall not be less than one-third of the total number of seats;

- (iii) in favour of backward class of citizens if so provided by the Legislature of the State;

- (iv) for Scheduled Castes, Scheduled Tribes and women in the office of Chairpersons as may be specified in the State law;

(f) fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved

before expiration of its duration, elections to be held within a period of six months of its dissolution;

(g) devolution by the State Legislature of powers and responsibilities upon the Municipalities with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government;

(h) levy of taxes and duties by Municipalities, assigning of such taxes and duties to Municipalities by State Governments and for making grants-in-aid by the State to the Municipalities as may be provided in the State law;

(i) a Finance Commission to review the finances of the Municipalities and to recommend principles for:

- (1) determining the taxes which may be assigned to the Municipalities;
- (2) sharing of taxes between the State and Municipalities;
- (3) grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(j) audit of accounts of the Municipal Corporations by the Comptroller and Auditor-General of India and laying of reports before the Legislature of the State and the Municipal Corporation concerned;

(k) making of law by a State Legislature with respect to elections to the Municipalities to be conducted under the superintendence, direction and control of the chief electoral officer of the State;

(l) application of the provisions of the Bill to any Union territory or part thereof with such modifications as may be specified by the President;

(m) exempting Scheduled Areas referred to in clause (1) and tribal areas referred to in clause (2), of article 244, from the application of the provisions of the Bill. Extension of provisions of the Bill to such areas may be done by Parliament by law;

(n) disqualifications for membership of a Municipality;

(o) bar of jurisdiction of Courts in matters relating to elections to the Municipalities.

The Bill sought to achieve the aforesaid objectives.

#### *Legislative History*

The Constitution (Seventy-fourth Amendment) Act, 1992, when introduced in the Lok Sabha on 16 September 1991, was titled as the Constitution (Seventy-third Amendment) Bill, 1991<sup>516</sup>. The Bill sought to insert Part IXA and Twelfth Schedule in the Constitution relating to the constitution and composition of urban local bodies. On a motion moved in the Lok Sabha on 20 December 1991 and adopted on the same day<sup>517</sup> and concurred in by the Rajya Sabha<sup>518</sup> on 21 December 1991, the Bill was referred to a Joint Committee of the two Houses.

The Report of the Joint Committee was presented to the Lok Sabha on 14 July 1992<sup>519</sup>. The Committee suggested amendments in some of the clauses of the Bill as introduced in the House. The Bill, as reported by the Joint Committee, was considered by the House on 1, 2, 4, 21 and 22 December 1992 and with some modifications, was passed on 22 December 1992<sup>520</sup>. The Bill, as passed by the Lok Sabha, was considered by the Rajya Sabha on 23 December 1992 and passed on the same day<sup>521</sup>.

Certain amendments including those recommended by the Joint Committee were moved and adopted by the House which are detailed as below:

#### *Article 243P*

Article 243P relating to definitions when introduced did not define the expressions “District”, “Metropolitan area” and “Panchayat”. On the recommendation of the Joint Committee, three new clauses were

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<sup>516</sup> *L.S. Deb.*, 16 September 1991, c. 100.

<sup>517</sup> *Ibid.*, 20 December 1991, c. 1100.

<sup>518</sup> *R.S. Deb.*, 21 December 1991, c. 25.

<sup>519</sup> *L.S. Deb.*, 14 July 1992, c. 666.

<sup>520</sup> *Ibid.*, 22 December 1992, c. 903.

<sup>521</sup> *R.S. Deb.*, 23 December 1992, cc. 213-238.

inserted defining these expressions and other clauses were re-numbered accordingly.

When this article came up for consideration in the Lok Sabha, certain amendments were moved by<sup>522</sup> the Minister of Urban Development, Smt. Sheila Kaul, to omit the word “revenue” from the definition of district and also to provide that Metropolitan and Municipal areas shall be specified by the Governor by public notification, instead of the Government of a State.

Article 243P, as amended by the Joint Committee and later by the Lok Sabha, was adopted by the Lok Sabha and Rajya Sabha on 22 and 23 December 1992, respectively<sup>523</sup>.

#### *Article 243Q*

This article, which deals with the constitution of Municipalities, was approved by the Joint Committee as introduced. But when this article came up for consideration in the House, an amendment was moved by the Minister of Urban Development, Smt. Sheila Kaul to insert a proviso to clause (1) of the article providing that any Municipality under this clause may not be constituted in such urban area as may be specified as “industrial township” and where municipal services are provided by such an industrial establishment. The article, as amended, was adopted by the Lok Sabha and Rajya Sabha on 22 and 23 December 1992, respectively<sup>524</sup>.

#### *Article 243R*

Article 243R, which deals with composition of Municipalities, was amended by the Joint Committee to omit clause (1) and re-number clause (2) as clause (1). Also clauses (3) to (5) were clubbed in the new clause (2). The Committee further opined that there should be representation of members of Parliament and of the State Legislatures in Municipalities. Accordingly, two new sub-clauses (ii) and (iii) providing for their representation were added in clause (2) of article 243R.

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<sup>522</sup> *L.S. Deb.*, 22 December 1992, c. 818.

<sup>523</sup> *Ibid.*, c. 837; *R.S. Deb.*, 23 December 1992, c. 221.

<sup>524</sup> *Ibid.*

Article 243R, as amended by the Joint Committee, was adopted by the Lok Sabha without any changes<sup>525</sup> on 22 December 1992 and concurred in by the Rajya Sabha on 23 December 1992.

*Article 243S*

Article 243S, which deals with the constitution and composition of Committee at ward level or other levels, when introduced did not specifically provide for their size particularly in relation to the population. The Joint Committee viewed that within the territorial area of Municipalities having a population of three lakh or more, a Wards Committee should be constituted. Further, the Committee recommended that a member representing a Ward in a Municipality should be a member of Wards Committee. Also, where a Wards Committee consists of one Ward, the member representing that Ward in the Municipality should be the Chairperson of the Wards Committee. However, where a Wards Committee consists of two or more Wards, one of the members representing such Wards in the Municipality should be elected by the members of the Wards Committee to be its Chairperson. The Joint Committee further recommended that nothing contained in the provisions of this article should prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committee.

These recommendations of Joint Committee were adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992<sup>526</sup>, respectively.

*Article 243T*

Article 243T to the Bill, when introduced in the Lok Sabha, read as follows:

243T. The provisions of articles 243D (except the proviso to clause (4), 243E [except clause (3)], 243F, 243H, 243-I, 243K, 243L, 243N and 243-O shall, so far as may be, apply in relation to Municipalities as they apply in relation to Panchayats.

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<sup>525</sup> For Text of the provision, see the Constitution (Seventy-fourth Amendment) Act, 1992, article 243R in Annexure (A).

<sup>526</sup> L.S. Deb., 22 December 1992, c. 837; R.S. Deb., 23 December 1992, c. 221.

The Joint Committee recommended that all the provisions of Part IX relating to Panchayats which have been made applicable to Part IXA, should be reproduced in full in the Bill with suitable modifications. Accordingly, article 243D [except the proviso to clause (4)] of Part IX was incorporated as article 243T. However, the Committee felt that the rotation of reserved seats should not be made mandatory and it should be left to the State Governments to rotate such seats.

All these recommendations were accepted by the House, and article 243T, in this amended form<sup>527</sup>, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>528</sup>.

#### *Article 243U*

After 243T, the Joint Committee recommended addition of a new article 243U with a view to making provisions relating to the duration of the Municipalities. It read as follows:

243U. (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting [and no longer].

(2) 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 if the Legislature of the State passes a resolution to the effect that due to drought, flood, earthquake or any other natural calamity or emergency, the election cannot be held within the period specified in sub-clause (b), the said election shall be completed within a period of one year from the date of dissolution of the Municipality.

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<sup>527</sup> For Text of the provision, see the Constitution (Seventy-fourth Amendment) Act, 1992, article 243T in Annexure (A).

<sup>528</sup> L.S. Deb., 22 December 1992, c. 837; R.S. Deb., 23 December 1992, c. 221.

(3) The Legislature of a State may, by law, make provisions with respect to the suspension or dissolution of a Municipality:

Provided that before a Municipality is suspended or dissolved, it shall be given a reasonable opportunity of being heard by such authority as is constituted by such law:

Provided further that the suspension of a Municipality shall not affect the continuation of the Committees constituted under article 243S.

During consideration of the Bill by the Lok Sabha, the Minister of Urban Development, Smt. Sheila Kaul moved two amendments to article 243U. The first amendment sought insertion of a proviso to clause (1) to provide reasonable opportunity of being heard to every Municipality before its dissolution. It also inserted a new clause (2) in the article which provided that no amendment to 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). By second amendment, clause (2) was re-numbered as clause (3), and a new proviso was substituted by earlier proviso. Further, new clause (4) was inserted in the article which provided that a Municipality constituted upon the dissolution of its predecessor 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 dissolved.

Article 243U, as reported by the Joint Committee and as further modified by amendments moved by the Minister, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>529</sup>.

#### *Article 234V*

On the recommendations of the Joint Committee, the existing article 243V (re-numbered as 243W) was replaced by a new one dealing with disqualifications for membership of a Municipality, on the lines of those in article 243F.

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<sup>529</sup> *Ibid.*

All these recommendations were accepted by the House and article 243V in this amended form<sup>530</sup> was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>531</sup>.

#### *Articles 243W and 243X*

Article 243V of the Bill, as introduced, was re-numbered as article 243W by the Joint Committee which deals with the powers, authority and responsibility of Municipalities, etc. A new article 243X was recommended by the Joint Committee to empower the Municipalities regarding imposition of taxes, funds, etc. The Joint Committee observed that article 243H of Part IX, which deals with these powers, should be incorporated with slight modification as to substitute the expression “Panchayat” by the expression “Municipality”.

Both these articles were accepted by the Lok Sabha and Rajya Sabha without further modifications and were adopted by them on 22 and 23 December 1992<sup>532</sup>, respectively.

#### *Article 243Y*

This article originally did not figure in the Bill when introduced in the Lok Sabha. The Joint Committee, while examining the Bill, recommended that article 243-I of Part IX dealing with constitution of Finance Commission to review financial position should be incorporated as article 243Y with suitable modifications as to substitute the expression “Panchayat” by “Municipality”.

With the said changes, article 243Y as recommended by the Joint Committee read:

243Y (1) The Governor of the 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 Municipalities and to 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

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<sup>530</sup> For Text of the provision, see the Constitution (Seventy-fourth Amendment) Act, 1993, article 243V in Annexure (A).

<sup>531</sup> L.S. Deb., 22 December 1992, c. 837; R.S. Deb., 23 December 1992, c. 221.

<sup>532</sup> *Ibid.*

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, 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) the extent to which the Consolidated Fund of the State needs to be augmented by the assistance from the Government of India to supplement the resources of the Municipalities;
- (d) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(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.

During consideration of the Bill, the Minister of Urban Development, Smt. Sheila Kaul, moved few amendments to article 243Y. These amendments, *inter alia*, sought to substitute opening words of clause (1) of article 243Y so as to substitute that the Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor. Further amendments suggested omission of sub-clause (c) of clause (1) of article 243Y, re-numbering of clause (d) as clause (c), omission of clauses (2) and (3) and re-numbering of clause (4) as clause (2).

All these amendments were accepted by the Lok Sabha. With these changes, article 243Y was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>533</sup>.

#### *Article 243Z*

Article 243U of the Bill, as introduced, was re-numbered as article 243Z by the Joint Committee without any further changes. However, when this article came up for consideration in the Lok Sabha, an amendment was moved by the Minister of Urban Development to substitute the article by a new one providing as follows:

243Z. The Legislature of a State may, by law, make provision with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

The article, in its amended form, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>534</sup>.

#### *Article 243ZA*

The clause as introduced *vide* article 243T provided that provision of article 243K of Part IX relating to election of Panchayats shall apply in relation to Municipalities also.

The Joint Committee recommended that it should be left to the Legislature of a State to make provisions with respect to all matters relating to the elections to the Municipalities. No other change was recommended during the consideration of this article in the Lok Sabha, the Minister of Urban Development, Smt. Sheila Kaul moved an amendment to insert a new clause (1) to the article which specifically provides that “the superintendence, duration and control of the preparation of electoral roll for and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K”. Further, clause (1) was re-numbered as clause (2).

Article 243ZA, as amended, was adopted by the Lok Sabha on 22 December 1992<sup>535</sup> and by the Rajya Sabha on 23 December 1992<sup>536</sup>.

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<sup>533</sup> *Ibid.*

<sup>534</sup> *Ibid.*

<sup>535</sup> *L.S. Deb.*, 22 December 1992, c. 837.

<sup>536</sup> *R.S. Deb.*, 23 December 1992, c. 221.

*Article 243ZB*

The Joint Committee had recommended that the provision to article 243L of Part IX in respect of its application to Union territories shall apply to this Bill also. However, the President should only have the power to apply the said provisions to any Union territory. The Joint Committee, accordingly, recommended insertion of a new clause ZB in article 243.

This clause, alongwith other new clauses ZC, ZD, ZE, ZF and ZG was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December<sup>537</sup> 1992, respectively.

*Article 243ZC*

Article 243W of the Bill as introduced, specifying Scheduled Areas wherein Part IXA shall not apply, was re-numbered by the Joint Committee as 243ZC. The Committee further suggested that this power of Parliament to extend the provision of Part IX A to the Scheduled Areas and the tribal areas should be exercised only if the Legislature of the State concerned passes a resolution to that effect. However, at the consideration stage, this recommendation was omitted by an amendment. By another amendment, a new sub-clause (2) was inserted which reads as:

243ZC. (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.

Also, clause (2) was re-numbered as clause (3). All these amendments moved by the Minister of Urban Development, Smt. Sheila Kaul were accepted by the House and the clause ZC was adopted in the Lok Sabha and Rajya Sabha on 22 and 23 December 1992, respectively<sup>538</sup>.

*Article 243ZD*

Originally when the Bill was introduced, this article, dealing with Committee for district planning, was not there. The Joint Committee

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<sup>537</sup> L.S. Deb., 22 December 1992, c. 837; R.S. Deb., 23 December 1992, c. 221.

<sup>538</sup> *Ibid.*

while examining the Bill felt that there was a need to take an overall view in regard to development of the district as a whole and decide an allocation of investment between rural and urban institutions. The Committee, therefore, recommended that there should be a provision for constitution of a District Planning Committee in every State at the district level with a view to consolidating the plans prepared by the Panchayats and the Municipalities in the district as a whole. In order to impart a democratic character to such Committee, not less than four-fifth of the total number of member of these Committees should be 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. The other details relating to composition of the said Committee, the manner of filling the seats therein, the functions relating to district planning to be assigned to such Committee and the manner in which the Chairperson of such Committee shall be chosen, may be left to the State Legislature. The District Planning Committee, in preparing the draft development plan, should have regard to 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; the extent and type of available resources. Whether financial or otherwise, while preparing such draft development plan, the said Committee should also consult such institutions and organisations as the State Governments may specify. The draft development plan so prepared shall be forwarded to the State Government concerned by the Chairperson of the Committee. Article 243ZD was thus inserted accordingly.

The article, as recommended by the Committee, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>539</sup>.

#### *Article 243ZE*

Like article 243ZD, this article dealing with constitution of Committee for Metropolitan planning also did not figure in the original Bill. Later the Joint Committee in its Report observed that there are

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<sup>539</sup> *Ibid.*

23 Metropolitan cities in the country where the Metropolitan area would encompass not only the main city corporation but also a number of other local bodies, both urban and rural. There was, therefore, a need for a suitable planning mechanism which would take care of interaction between these bodies. The Committee, therefore, recommended constitution of a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

In order to impart democratic character, not less than two-third members of such Committee should 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. The other details relating to composition of the said Committee, the manner of filling the seats therein, the representation in such Committees of the Government of India and the Government of the State and other organisations and institutions, the functions relating to planning and coordination for the Metropolitan area to be assigned to such Committee and the manner in which the Chairperson of such Committee shall be chosen, may be left to the State Legislature. The Metropolitan Planning Committee should, in preparing the draft development plan, have regard to the plans prepared by 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; overall objectives and priorities set by the Government of India and the Government of the State; the extent and nature of investment likely to be made in the Metropolitan area by agencies of the Government and other available resources, whether financial or otherwise. The draft development plan so prepared, shall be forwarded to the State Government concerned by the Chairperson of the said Committee. Article 243ZE was inserted accordingly.

The article, as drafted by the Joint Committee, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>540</sup>.

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<sup>540</sup> *Ibid.*

*Articles 243ZF and 243ZG*

As recommended by the Joint Committee and further accepted by the House, articles 243N and 243-O of Part IX were incorporated as articles 243ZF and 243ZG respectively, thereby inserting provisions relating to continuance of existing laws and Municipalities and bar to interference by Courts in electoral matters.

*Amendment of Article 280*

The Joint Committee felt that an amendment should be made in article 280 relating to constitution of the Central Finance Commission so that the said Commission should make recommendations to the President as to 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.

This recommendation of the Joint Committee was accepted by the Lok Sabha<sup>541</sup> and a new sub-clause (c) was inserted in article 280(3) of the Constitution. The clause, as approved by the Lok Sabha, was adopted by the Rajya Sabha on 23 December 1992<sup>542</sup>.

*Other Amendments*

Clause 3 of the Bill was re-numbered as clause 4 by the Joint Committee and an amendment was suggested in item 8 of the Twelfth Schedule to include subjects relating to protection of environment, public amenities, including street lighting, parking lots, bus stops, public conveniences, regulation of slaughter houses and tanneries. The Twelfth Schedule was amended accordingly. Clause 4, as amended by the Joint Committee, was adopted by the Lok Sabha and the Rajya Sabha on 22 and 23 December 1992, respectively<sup>543</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha on 22 December 1992<sup>544</sup> with a formal amendment replacing the word “Seventy-third”

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<sup>541</sup> L.S. Deb., 22 December 1992, c. 855.

<sup>542</sup> R.S. Deb., 23 December 1992, c. 222.

<sup>543</sup> L.S. Deb., 22 December 1992, c. 871; R.S. Deb., 23 December 1992, c. 225.

<sup>544</sup> L.S. Deb., 22 December 1992, c. 887.

by the word “Seventy-fourth”. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 23 December 1992<sup>545</sup>.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new Part, namely, Part IX comprising articles 243P to 243ZG dealing with the Municipalities has been inserted in the Constitution. (Section 2)

Article 243P deals with definitions of various terms used in the Act which *inter alia* include: “Committee” means a Committee constituted under article 243S; “district” means a district in a State; “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 area, specified by the Governor by public notification to be a Metropolitan area for the purposes of Part IXA; “Municipal area” means the territorial area of a Municipality as is notified by the Governor; “Municipality” means an institution of self-government constituted under article 243Q; “Panchayat” means a Panchayat constituted under article 243B; “Population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

Under article 243Q, the Act provides for the constitution of a Nagar Panchayat for a transitional area, *i.e.* an area in transition from a rural area to an urban area; a Municipal Council for a smaller urban area; and a Municipal Corporation for a larger urban area. A Municipality 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.

The Governor may specify, by public notification, as to what constitutes a “transitional area”, “a smaller urban area” or “a larger

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<sup>545</sup> R.S. Deb., 23 December 1992, c. 230.

“urban area” considering the factors such as population, density of the population, revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance of the area.

Article 243R provides that all the seats in a Municipality shall be filled by way of direct election and, for this purpose, each Municipal area shall be divided into territorial constituencies to be known as Wards. The Legislature of a State may, by law, provide for the representation in a Municipality of:

- (i) persons having special knowledge or experience in Municipal administration (But such persons are not entitled to vote in the meetings of the Municipality);
- (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 Committee constituted under clause 5 of article 243S.

The Legislature of State is also empowered to provide for the manner of election of Chairperson of a Municipality.

The Act *vide* article 243S provides for the constitution of Wards Committees, consisting of one or more Wards, within the territorial area of a Municipality having a population of three lakhs or more. The Legislature of a State is empowered to make provision with respect to the composition and the territorial area of a Wards Committee; the manner of filling of the seats in a Wards Committee. Further a member of Municipality representing the Ward within the territorial area of the Wards Committee shall be a member of that Committee. Where a Wards Committee consists of one Ward, the member representing that Ward shall be the Chairperson of the Ward. In case it consists of 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. Legislature is empowered to make

provisions for the constitution of Committees in addition to the Wards Committees.

Article 243 provides, *inter alia*, for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Municipality in proportion to their population of which not less than one-third of the total number of seats should be reserved for women from among the Scheduled Castes and Scheduled Tribes. Further, one-third of the total number of seats including the seats reserved for SC/ST women shall be reserved for women and such seats may be allotted by rotation. The Legislature of a State may also provide for reservation of seats for backward class of citizens.

Under article 243U, the term of every Municipality, unless sooner dissolved, shall be five years. A Municipality shall be given a reasonable opportunity of being heard before its dissolution. An election to a Municipality shall be completed before the expiry of its duration of five years; and in case of dissolution before the expiration of six months from the date of its dissolution.

Under article 243V, a person shall be disqualified for being chosen as and for being a member of a Municipality if he is disqualified to contest the elections to the Legislature of the State concerned. 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. A person shall also be disqualified if he is so disqualified by or under any State law. If any question arises as to the disqualification of a member, the same shall be referred for the decision of such authority and in such manner as the Legislature of State may, by law, provide.

Article 243W provides that the Legislature of a State may, by law, endow the Municipalities with such powers, authority and responsibilities to enable them to function as institutions of self-government; prepare plans for economic development and social justice; perform functions and implement schemes entrusted to them including those mentioned in the Twelfth Schedule.

Under article 243X, a Municipality may be authorised by the State Legislature to levy, collect and appropriate such taxes, duties, tolls and fees; 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; provide for such grants-in-aid from the Consolidated Fund of the State; provide for constitution of Funds for crediting and withdrawal of monies as may be specified in the law.

Article 243Y provides that the Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to the principles which should govern the financial relations between the State and Municipalities as specified therein and the measures needed to improve the financial position of the Municipalities. The Governor shall cause every recommendation together with an explanatory memorandum as to the action taken thereon, to be laid before the Legislature of the State.

Under article 243Z, the provisions for maintenance and audit of accounts of Municipalities may be made by the State Legislature.

Article 243ZA provides that 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. The Legislature of a State, however, is empowered to make provisions in respect of all matter relating to elections.

The provisions of Part IXA shall apply to Union territories provided that the President may, by public notification, direct such application with some exceptions and modifications. However, the provisions of Part IXA shall not be applicable to the Scheduled Areas referred to in clause (1) and the tribal areas referred to in clause (2) of article 244 unless the Parliament makes law to that effect and also shall not affect the functions and powers of the Darjeeling Gorkha Hill Council.

The Act provides for the constitution of a District Planning Committee at the district level to consolidate the plans prepared by the Panchayats and the Municipalities and to prepare a draft development plan for the district as a whole. The Legislature of a State shall be empowered to make provision for the composition and functions of the Committee, etc. Similarly in every Metropolitan area, a Metropolitan Planning Committee shall be constituted to prepare a draft development plan for the Metropolitan area as a whole. The Legislature of a State is empowered to make provision with regard to the composition of Committee, etc.

Article 243ZF relates to continuance of existing laws and Municipalities, while article 243ZG bars interference by Courts in electoral matters.

A new Twelfth Schedule, containing various matters relating to functions and responsibilities to be performed by a Municipality, has been inserted.

## LXXV

### **THE CONSTITUTION (SEVENTY-FIFTH AMENDMENT) ACT, 1994<sup>546</sup>**

#### *Objects and Reasons of the Bill*

The Rent Control Legislations, as they are operative today in various States, suffer from major weaknesses and have led to a number of unintended consequences. Some of the deleterious legal consequences include mounting and unending litigations inability of the Courts to provide timely justice, evolution of practices and systems to bypass the operations of rent legislations and steady shrinkage of rental housing market.

The Supreme Court, taking note of the precarious state of rent litigation in the country, in the case of *Prabhakaran Nair and others vs. State of Tamil Nadu* (Civil Writ Petition 506 of 1986 and other Writs) observed that the Supreme Court and the High Courts should be relieved of the heavy burden of rent litigation. Tiers of appeals should be curtailed. Laws should be simple, rational and clear. Litigations must come to an end quickly. The idea of a National Rent Tribunal on all-India basis with quicker procedure should be examined.

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<sup>546</sup> Bill No. 103 of 1992; Introduced as the Constitution (Seventy-seventh Amendment) Bill in Lok Sabha by the Minister of Urban Development, Smt. Sheila Kaul on 14 July 1992; Debated, Lok Sabha: 24 and 25 August 1993; Rajya Sabha: 26 August 1993; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Nagaland, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh and West Bengal; President's Assent: 5 February 1994; Date of Gazette Notification: 8 February 1994; Date of Commencement: 15 May 1994.

Article 322B in Part XIVA of the Constitution was proposed to be amended so as to give timely relief to the rent litigants by providing for setting up of State-level Rent Tribunals in order to reduce the tiers of appeals and to exclude the jurisdiction of all Courts except that of the Supreme Court under article 136 of the Constitution.

The Bill sought to achieve the aforesaid objects.

#### *Legislative History*

The Constitution (Seventy-fifth Amendment) Act, 1994, when introduced in the Lok Sabha on 14 July 1992, was titled as the Constitution (Seventy-seventh Amendment) Bill, 1992<sup>547</sup>. The Bill sought to amend article 323B of the Constitution.

The Bill was considered by the Lok Sabha on 24 and 25 August 1993 and, as amended, was passed on the same day<sup>548</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 26 August 1993<sup>549</sup>.

Clause 1 of the Bill was adopted by the Lok Sabha with a formal amendment replacing the word “Seventy-seventh” by the word “Seventy-fifth”. Clause 1, as amended by the Lok Sabha, was adopted by the Rajya Sabha on 26 August 1993<sup>550</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government, may, by notification in the Official Gazette, appoint. (Section 1)

Article 323B of the Constitution, dealing with provisions relating to adjudication/trial of certain matters by tribunals, has been amended to insert a new sub-clause (h) in clause (2) in order to provide for adjudication or trial by tribunals of any dispute, complaint or offence in respect of rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants. (Section 2)

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<sup>547</sup> L.S. Deb., 14 July 1992, c. 671.

<sup>548</sup> Ibid., 25 August 1993, cc. 355-365.

<sup>549</sup> R.S. Deb., 26 August 1993, c. 326.

<sup>550</sup> L.S. Deb., 25 August 1993, c. 355; R.S. Deb., 26 August 1993, c. 329.

## LXXVI

### THE CONSTITUTION (SEVENTY-SIXTH AMENDMENT) ACT, 1994<sup>551</sup>

#### *Objects and Reasons of the Bill*

The policy of reservation of seats in educational institutions and appointments to various posts in public services for Backward Classes, Scheduled Castes and Scheduled Tribes has had a long history in Tamil Nadu dating back to the year 1921. The extent of reservation has been increased by the State Government, from time to time, consistent with the needs of the majority of the people and it has now reached the level of 69 per cent. (18 per cent for Scheduled Castes, 1 per cent for Scheduled Tribes and 50 per cent for Other Backward Classes).

The Supreme Court delivered its judgement in *Indra Sawhney and others vs. Union of India and others* (AIR 1993 S.C. 477) on 16 November 1992, holding that the total reservations under article 16(4) should not exceed 50 per cent.

The issue of admission to educational institutions for the academic year 1993-94 came up before the High Court of Madras in a writ petition. The High Court of Madras held that the Tamil Nadu Government could continue its reservation policy as hitherto followed during that academic year and that the quantum of reservation should be brought down to 50 per cent during the academic year 1994-95. The Government of Tamil Nadu had filed a Special Leave Petition against the ruling of the High Court of Madras in order that the present reservation policy of the State Government should be reaffirmed so as to ensure continuity in advancement of the backward classes. However, the Supreme Court of India passed an interim order reiterating that the reservation should not exceed 50 per cent in the matter of admission to educational institutions.

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<sup>551</sup> Bill No. 66 of 1994; Introduced as the Constitution (Eighty-fifth Amendment) Bill in Rajya Sabha by the Minister of Welfare, Shri Sita Ram Kesari on 24 August 1994; Debated, Rajya Sabha: 24 August 1994; Lok Sabha: 25 August 1994; President's Assent: 31 August 1994; Date of Gazette Notification: 1 September 1994; Date of Commencement: 31 August 1994.

In the special session of Tamil Nadu Legislative Assembly held on 9 November 1993, it had been unanimously resolved to call upon the Central Government to take steps immediately to bring a suitable amendment to the Constitution as to enable the Government of Tamil Nadu to continue with its policy of 69 per cent reservation in Government Services and for admission in educational institutions as at present. An all party meeting had also been held on 26 November 1993 in Tamil Nadu urging that there should not be any doubt or delay in ensuring the continued implementation of 69 per cent reservation for the welfare and advancement of the backward classes.

The Tamil Nadu Government enacted a legislation, namely, 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) Bill, 1993 and forwarded it to the Government of India for consideration of the President of India in terms of article 31C of the Constitution.

In view of the importance and sensitive nature of the matter, the Union Home Minister held meetings with the leaders of political parties on 13 July 1994 to discuss the provisions of the Bill. The general consensus among the leaders was that the Bill should be assented to. Accordingly, the President gave his assent to the Bill on 19 July 1994.

The Tamil Nadu Government accordingly notified 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 as Act No. 45 of 1994 on 19 July 1994.

The Tamil Nadu Government requested the Government of India on 22 July 1994 that the afore-mentioned Tamil Nadu Act 45 of 1994 be included in the Ninth Schedule to the Constitution for the reasons given below:

The said Act attracts article 31C of the Constitution, as falling within the purview of clauses (b) and (c) of article 39 and articles 38 and 46 of the Constitution—*vide* section 2 of the Act. The Act has been passed relying on the Directive Principles of State Policy

enshrined in Part IV of the Constitution and in particular, articles 38, 39(b) and (c) and 46 of the Constitution. As the Act is to give effect to the Directive Principles of State Policy contained, *inter alia*, in article 39 (b) and (c), the said Act will get the protection of article 31C of the Constitution and, therefore, cannot be challenged under articles 14 and 19 of the Constitution, with reference to which article 14, the reservation exceeding 50 per cent has been struck down by the Supreme Court. Now it has been decided to address the Government of India for including the Act in the Ninth Schedule to the Constitution so that the law cannot be challenged as violative of any of the Fundamental Rights contained in Part III of the Constitution including articles 15 and 16, and gets protection under article 31B of the Constitution.

The Government of India has already supported the provision of the State legislation by giving the President's assent to the Tamil Nadu Bill. As a corollary to this decision, it was necessary that the Tamil Nadu Act 45 of 1994 was brought within the purview of the Ninth Schedule to the Constitution in order to get protection under article 31B of the Constitution in regard to the judicial review. Hence this Bill.

#### *Legislative History*

The Constitution (Seventy-sixth Amendment) Act, 1994, when introduced in the Rajya Sabha on 24 August 1994, was titled as the Constitution (Eighty-fifth Amendment) Bill, 1994<sup>552</sup>. The Bill sought to amend the Ninth Schedule of the Constitution.

The Bill was considered by the Rajya Sabha on 24 August 1994 and passed on the same day<sup>553</sup> with a formal amendment<sup>554</sup> changing the short title of the Constitution (Seventy-sixth Amendment) Act, 1994. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 25 August 1994<sup>555</sup>.

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<sup>552</sup> R.S. Deb., 24 August 1994, c. 229.

<sup>553</sup> Ibid., 24 August 1994, c. 230.

<sup>554</sup> Ibid., c. 270.

<sup>555</sup> L.S. Deb., 25 August 1974, cc. 460-506.

*Important Provisions of the Act*

The Act added to the Ninth Schedule to the Constitution the Entry 257A relating to reservation of seats with a view to clarifying that the said enactment shall not be deemed to be void on the ground that the same is inconsistent with any of the provisions of Part III of the Constitution relating to Fundamental Rights. (Section 2)

## LXXVII

### **THE CONSTITUTION (SEVENTY-SEVENTH AMENDMENT) ACT, 1995<sup>556</sup>**

*Objects and Reasons of the Bill*

The Scheduled Castes and the Scheduled Tribes have been enjoying the facility of reservation in promotion since 1955. The Supreme Court in its judgment dated 16 November 1992 in the case of *Indra Sawhney and Others vs. Union of India and Others*, however, observed that reservation of appointments or posts under article 16(4) of the Constitution is confined to initial appointment and cannot extend reservation in the matter of promotion. This ruling of the Supreme Court would adversely affect the interests of the Scheduled Castes and the Scheduled Tribes. Since the representation of the Scheduled Castes and the Scheduled Tribes in services in the States had not reached the required level, it became necessary to continue the existing dispensation of providing reservation in promotion in the case of the Scheduled Castes and the Scheduled Tribes. In view of the commitment of the Government to protect the interests of the Scheduled Castes and the Scheduled Tribes, the Government decided to continue the existing policy of reservation in promotion for the Scheduled Castes and the Scheduled Tribes. To carry out this, it was necessary to amend article 16 of the Constitution by inserting a new clause (4A) in the said article to provide for reservation in promotion for the Scheduled Castes and the Scheduled Tribes.

The Bill sought to achieve the aforesaid object.

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<sup>556</sup> Bill No. 43 of 1995; Introduced as the Constitution (Eighty-sixth Amendment) Bill in Lok Sabha by the Minister of Welfare, Shri Sita Ram Kesari on 31 May 1995; Debated, Lok Sabha: 2 June 1995; Rajya Sabha: 2 June 1995; President's Assent: 17 June 1995; Date of Gazette Notification: 19 June 1995; Date of Commencement: 17 June 1995.

*Legislative History*

The Constitution (Seventy-seventh Amendment) Act, 1995, when introduced in the Lok Sabha on 31 May 1995, was titled as the Constitution (Eighty-sixth Amendment) Bill, 1995<sup>557</sup>. The Bill sought to amend article 16 of the Constitution.

The Bill was considered by the Lok Sabha on 2 June 1995 and passed on the same day with a formal amendment changing the short title from “Eighty-sixth” to “Seventy-seventh”<sup>558</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 2 June 1995<sup>559</sup>.

*Important Provisions of the Act*

A new clause 4A has been inserted in article 16 of the Constitution. The newly inserted clause has provided that nothing in article 16 shall prevent the State from making a provision for reservation in matters of promotion 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. (Section 2)

**LXXVIII****THE CONSTITUTION (SEVENTY-EIGHTH AMENDMENT)  
ACT, 1995<sup>560</sup>***Objects and Reasons of the Bill*

Article 31B of the Constitution confers immunity from legal challenge on the enactments included in the Ninth Schedule to the

<sup>557</sup> L.S. Deb., 31 May 1995, cc. 209-225.

<sup>558</sup> Ibid., 2 June 1995, cc. 302-419.

<sup>559</sup> R.S. Deb., (Hindi), 2 June 1995, pp. 278-289.

<sup>560</sup> Bill No. 14 of 1994; Introduced as the Constitution (Eighty-first Amendment) Bill in Rajya Sabha by the Minister of State for Rural Development, Shri Rameshwar Thakur on 19 April 1994; Referred to the Standing Committee on Urban and Rural Development; Report of the Committee presented: 15 December 1994; Debated, Rajya Sabha: 22 August 1995; Lok Sabha: 25 and 26 August 1995; President’s Assent: 30 August 1995; Date of Gazette Notification: 31 August 1995; Date of Commencement: 30 August 1995.

Constitution on the ground that they violate the Fundamental Rights enshrined in Part III of the Constitution. The Schedule consists of list of laws enacted by various State Government and the Central Government which *inter alia* affect rights and interest in property including land.

In the past, whenever it was found that progressive legislation conceived in the interest of the public was imperilled by litigation, recourse was taken to the Ninth Schedule. Accordingly, several State enactments relating to land reforms and ceiling on agricultural land holdings have already been included in the Ninth Schedule. In view of the Government's commitment to give importance to land reforms, it became necessary to include land reform laws in the Ninth Schedule so as to prevent them from being challenged before the Courts. The State Governments of Bihar, Karnataka, Kerala, Orissa, Rajasthan, Tamil Nadu and West Bengal suggested the inclusion of some of their Acts relating to land reforms in the Ninth Schedule.

Since the amendment to acts already placed in the Ninth Schedule were not automatically immune from legal challenge, a number of amending acts along with a few principal acts were also proposed to be included in the Ninth Schedule so as to ensure that implementation of these acts was not adversely affected by litigation.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Seventy-eighth Amendment) Act, 1995, when introduced in the Rajya Sabha on 19 April 1994, was titled as the Constitution (Eighty-first Amendment) Bill, 1994<sup>561</sup>. It sought to amend the Ninth Schedule to the Constitution. The Bill was referred to the Standing Committee on Urban and Rural Development. The Committee presented its Report to the Lok Sabha and laid it on the table of the Rajya Sabha on 15 December 1994. The Committee approved the Bill without any recommendation for amendments.

The Bill was considered by the Rajya Sabha on 22 August 1995 and passed on the same day with a formal amendment changing the

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<sup>561</sup> R.S. Deb., 19 April 1994, c. 197.

short title from “Eighty-first” to “Seventy-eighth”<sup>562</sup> and an amendment, moved by the Minister of Rural Areas and Employment, Dr. Jagannath Mishra, to substitute the words “entry 257A” for “entry 257” in clause 2 of the Bill<sup>563</sup>. The Bill, as passed by the Rajya Sabha, was considered by the Lok Sabha on 25 August 1995<sup>564</sup> and passed on 26 August 1995<sup>565</sup>.

*Important Provisions of the Act*

The Act added to the Ninth Schedule to the Constitution 27 additional State enactments (Entries No. 258 to 284) relating to the land reforms acts after Entry 257A and before the Explanation, with a view to clarifying that the said enactments shall not be deemed to be void on the ground that the same are inconsistent with any of the provisions of Part III of the Constitution relating to Fundamental Rights. (Section 2)

## LXXIX

### **THE CONSTITUTION (SEVENTY-NINTH AMENDMENT) ACT, 1999<sup>566</sup>**

*Objects and Reasons of the Bill*

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes and the representation of Anglo-Indian

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<sup>562</sup> *Ibid.*, 22 August 1995, cc. 368-432.

<sup>563</sup> *Ibid.*, c. 409.

<sup>564</sup> *L.S. Deb.*, 25 August 1995, cc. 285-315.

<sup>565</sup> *Ibid.*, 26 August, cc. 23-47.

<sup>566</sup> Bill No. 67 of 1999; Introduced as the Constitution (Eighty-fourth Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri Ram Jethmalani on 26 October 1999; Debated, Lok Sabha: 27 October 1999; Rajya Sabha: 28 October 1999; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Bihar, Goa, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Manipur, Mizoram, Nagaland, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal; President’s Assent: 21 January 2000; Date of Gazette Notification: 21 January 2000; Date of Commencement: 25 January 2000.

community by nomination in the Lok Sabha and in the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of fifty years from the commencement of the Constitution. Although the Scheduled Castes and the Scheduled Tribes have made considerable progress in the last fifty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members, have not ceased to exist. It was, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indians by nomination for a further period of ten years.

This Bill sought to achieve the above object.

#### *Legislative History*

The Constitution (Seventy-ninth Amendment) Act, 1999, when introduced in the Lok Sabha on 26 October 1999, was titled as Constitution (Eighty-fourth Amendment) Bill, 1999<sup>567</sup>. The Bill sought to amend article 334 of the Constitution.

The Bill was considered by Lok Sabha on 27 October 1999 and passed on the same day with a formal amendment changing the short title from “Eighty-fourth” to “Seventh-ninth”<sup>568</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 28 October 1999<sup>569</sup>.

#### *Important Provisions of the Act*

Section 1 of the Act has provided that this Act shall come into force from 25 January 2000.

Article 334 has been amended to provide for the continuance of the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indians by nomination in the House of the People and in the Legislative Assemblies of the State for a further period of ten years, by extending such period from “fifty years” to “sixty years”. (Section 2)

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<sup>567</sup> L.S. Deb., 26 October 1999, cc. 4-5.

<sup>568</sup> Ibid., 27 October 1999, cc. 47-66, 67-160.

<sup>569</sup> R.S. Deb., 28 October 1999, pp. 19-72, 73-91.

**LXXX****THE CONSTITUTION (EIGHTIETH AMENDMENT)  
ACT, 2000<sup>570</sup>***Objects and Reasons of the Bill*

The Tenth Finance Commission had submitted its report on 26 November 1994 for a period of five years, *i.e.* from 1995-96 to 1999-2000. The said report was laid on the table of both the Houses of Parliament on 14 March 1995. One of the recommendations of the Commission that has been under consideration of the Government, is an alternative scheme of sharing of the proceeds of certain Union taxes and duties between the Union and the States.

The alternative scheme envisages that twenty-six per cent out of the gross proceeds of the Union taxes and duties (excluding stamp duty, excise duty on medicinal/toilet preparations, Central Sales Tax, Consignment Tax, cesses levied for specific purposes under any law made by Parliament, and surcharge) is to be assigned to the States in lieu of their existing share in income-tax, basic excise duties, special excise duties and grants in lieu of tax on railway passenger fares.

In addition, three per cent share in the gross proceeds of all Central taxes and duties (excluding stamp duty, excise duty on medicinal/toilet preparations, Central Sales Tax, Consignment Tax, cesses levied for specific purpose under any law made by Parliament, and surcharge) is to be assigned to the States in lieu of their existing share in Additional Excise Duties in lieu of Sales Tax on tobacco, cotton and sugar. The Commission had proposed that tobacco, cotton and sugar may continue to be exempt from Sales Tax and the Additional Excise Duties in lieu of Sales Tax on these items may be merged with the Basic Excise Duties.

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<sup>570</sup> Bill No. 41 of 2000; Introduced as the Constitution (Eighty-ninth Amendment) Bill in Lok Sabha by the Minister of Finance, Shri Yashwant Sinha on 9 March 2000; Debated, Lok Sabha: 9 May 2000; Rajya Sabha: 16 May 2000; President's Assent: 9 June 2000; Date of Gazette Notification: 9 June 2000; Date of Commencement: 9 June 2000; Section 3 came into force from 1 April 1996.

Whether the alternative scheme would be more gainful to the Centre or to the States *vis-a-vis* existing arrangements would entirely depend on the relative growth in the collection of various Central taxes and duties to be pooled.

The benefits of the scheme have been listed by the Commission in Para 13.2, 13.3 and 13.18 of their reports. These areas are as follows:

- (i) with a given share being allotted to the States in the aggregate revenues from Central taxes, the States will be able to share the aggregate buoyancy of Central taxes;
- (ii) the Central Government can pursue tax reforms without the need to consider whether a tax is shareable with the States or not;
- (iii) the impact of fluctuations in Central tax revenues would be felt alike the Central and the State Governments;
- (iv) Should the taxes mentioned in articles 268 and/or 269 form part of this arrangement, there will be greater likelihood of their being tapped; and
- (v) the progress of reforms will be greatly facilitated if the ambit of tax sharing arrangement is enlarged so as to give greater certainty of resources flows to, and increased flexibility, in tax reform.

The above scheme recommended by the Commission is in national interest as it helps to remove a perceived inter-tax bias in the tax mobilisation effort of the Government of India while leaving sufficient flexibility for meeting Centre's exclusive needs by keeping cesses and surcharges outside the pooling arrangement.

A discussion paper bringing out various aspects of the scheme was laid on the table of both the Houses of Parliament on 20 December 1996 with a view to generate an informed debate.

On the basis of a consensus reached in the Third Meeting of the Inter-State Council held on 17 July 1997, the then Government had agreed in principle to accept the scheme recommended by the Tenth Finance Commission subject to certain modifications.

The Government decided to ratify the decision taken by the previous Government according, in principle, approval for the scheme recommended by the Tenth Finance Commission with some modifications.

Firstly, the percentage share of States is to be reviewed by the successive Finance Commission instead of freezing it for fifteen years as suggested by the Tenth Finance Commission.

Secondly, the Government has decided to change the sharing of “gross proceeds” as recommended by the Tenth Finance Commission to the sharing of “net proceeds” in order to maintain consistency between articles 270, 279 and 280 of the Constitution. However, this will not result in any consequent loss to the States because the Government has also simultaneously decided to compensate the States by suitably enhancing the percentage share beyond 29 per cent.

Thirdly, as intended by the Commission, no amendment is sought to be made in article 271, which authorizes the Central Government to levy surcharge on Central taxes and duties for the purpose of the Union.

The scheme would be effective from 1 April 1996. The percentage share of net proceeds during 1996-97 to 1999-2000 will be such that the States’ share is 29 per cent of the gross proceeds. The recommendations of the Eleventh Finance Commission, which has been mandated to give its final report by 30 June 2000, will cover the 5 years period *w.e.f.* 1 April 2000.

In order to implement this decision, this Bill sought to amend articles 269, 270 and 272 of the Constitution so as to bring several Central taxes and duties like Corporation tax and Customs duties at par with personal Income-tax as far as their constitutionally mandated sharing with the States is concerned.

The Bill sought to achieve the aforesaid object.

#### *Legislative History*

The Constitution (Eightieth Amendment) Act, 2000, when introduced in Lok Sabha on 9 March, 2000, was titled as the Constitution (Eighty-

ninth Amendment) Bill, 2005<sup>571</sup>. The Bill sought to amend articles 269, 270 and 272 of the Constitution.

The Bill was considered by the Lok Sabha on 9 May 2000 and passed on the same day with a formal amendment changing the short title from “Eighty-ninth” to “Eightieth”<sup>572</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 16 May 2000<sup>573</sup>.

#### *Important Provisions of the Act*

Clauses (1) and (2) of article 269 of the Constitution have been substituted with new clauses. Newly substituted clause (1) has provided for levying and collection by the Central Government of taxes on the sale or purchase of goods and taxes on the consignment of goods but the same shall be assigned and shall be deemed to have been assigned to the States on or after 1 April 1996 in the manner provided in clause (2). For the purpose of this clause, 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; and 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. Clause (2), as substituted, has provided that the net proceeds of any such tax in a financial year, except those proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the State within which that tax is leviable in that year, and shall be distributed among those States in accordance with the principles of distribution as may be formulated by Parliament by law. (Section 2)

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<sup>571</sup> L.S. Deb., 9 March 2000, c. 272.

<sup>572</sup> Ibid., 9 May 2000, cc. 383-494.

<sup>573</sup> R.S. Deb., 16 May 2000, pp. 175-188, 189-274.

Article 270 has been substituted with a new article with effect from 1 April 1996. It provides that all taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States as specified therein. 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 as provided for in clause (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. (Section 3)

Article 272 of the Constitution, which deals with taxes to be levied and collected by the Union and to be distributed between the Union and the States, has been omitted. Notwithstanding such omission, where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after 1 April 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from 1 April 1996. Further, any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after 1 April 1996 but before the commencement of this Act, shall be deemed to have been distributed in accordance with the provisions of article 270. (Section 4)

## LXXXI

### THE CONSTITUTION (EIGHTY-FIRST AMENDMENT) ACT, 2000<sup>574</sup>

*Objects and Reasons of the Bill*

Prior to 29 August 1997, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes, which could not be filled up by direct recruitment on account of non-availability of the candidates belonging to the Scheduled Castes and Scheduled Tribes, were treated as “Backlog Vacancies”. These vacancies were treated as a distinct group and were excluded from the ceiling of fifty per cent reservation. The Supreme Court of India in its judgment in the *Indra Sawhney and others vs. Union of India and others* held that the number of vacancies to be filled up on the basis of reservations in a year including carried forward reservations should in no case exceed the limit of fifty per cent. As total reservations in a year for the Scheduled Castes, the Scheduled Tribes and the other Backward Classes combined together had already reached forty-nine and a half per cent and the total number of vacancies to be filled up in a year could not exceed fifty per cent, it became difficult to fill the “Backlog Vacancies” and to hold Special Recruitment Drives. Therefore, to implement the judgment of the Supreme Court, an Official Memorandum dated 29 August 1997 was issued to provide that the fifty per cent limits shall apply to current as well as “Backlog Vacancies” and for discontinuation of the Special Recruitment Drive.

Due to the adverse effects of the aforesaid order dated 29 August 1997, various organisations including the members of Parliament represented to the Central Government for protecting the interest of the Scheduled Castes and the Scheduled Tribes. The Government, after considering various representations, reviewed the position and decided to make amendment in the Constitution so that the unfilled vacancies of a year, which are reserved for being filled up in that year in

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<sup>574</sup> Bill No. 90 of 2000: Introduced as the Constitution (Ninetieth Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Personnel, Public Grievances and Pensions, Smt. Vasundhra Raje on 8 May 2000; Debated, Lok Sabha: 9 and 10 May 2000; Rajya Sabha: 16 May 2000; President's Assent: 9 June 2000; Date of Gazette Notification: 9 June 2000; Date of Commencement: 9 June 2000.

accordance with any provision for reservation made under clause (4) of clause (4A) of article 16 of the Constitution, shall be considered 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. This amendment in the Constitution would enable the State to restore the position as was prevalent before 29 August 1997.

That Bill sought to achieve the aforesaid object.

#### *Legislative History*

The Constitution (Eighty-first Amendment) Act, 2000, when introduced in the Lok Sabha on 8 May 2000, was titled as the Constitution (Ninetieth Amendment) Bill, 2000<sup>575</sup>. The Bill sought to amend article 16 of the Constitution.

The Bill was considered by the Lok Sabha on 9 May 2000<sup>576</sup> and passed on 10 May 2000 with a formal amendment changing the short title from “Ninetieth” to “Eighty-first”<sup>577</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 16 May 2000<sup>578</sup>.

#### *Important Provisions of the Act*

Article 16 of the Constitution of India provides for equality of opportunity in matters of public employment. A new clause (4B) has been inserted to provide that nothing in article 16 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) of article 16, 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.

<sup>575</sup> L.S. Deb., 8 May 2000, cc. 304-309.

<sup>576</sup> Ibid., 9 May 2000, cc. 495-580.

<sup>577</sup> Ibid., 10 May 2000, cc. 336-390.

<sup>578</sup> R.S. Deb., 16 May 2000, pp. 274-288, 289-325.

## LXXXII

### THE CONSTITUTION (EIGHTY-SECOND AMENDMENT) ACT, 2000<sup>579</sup>

#### *Objects and Reasons of the Bill*

The Scheduled Castes and the Scheduled Tribes had been enjoying the facility of relaxation of qualifying marks and standards of evaluation in matters of reservation in promotion. The Supreme Court in its Judgment dated 1 October 1996 in the case of *S. Vinod Kumar vs. Union of India* held that such relaxations in matters of reservation in promotion were not permissible under article 16(4) of the Constitution in view of the command contained in article 335 of the Constitution. The Apex Court also held that the law on the subject of relaxations of qualifying marks and standards of evaluation in matters of reservation in promotion is one laid down by the nine-judge Constitution Bench of the Supreme Court in the case of *Indra Sawhney and others vs. Union of India and others*. Para 831 of *Indra Sawhney* judgment also held such relaxations as being not permissible under article 16(4) in view of the command contained in article 335 of the Constitution. In order to implement the judgments of the Supreme Court, such relaxations had to be withdrawn with effect from 22 July 1997.

In view of the adverse effect of the Order dated 22 July 1997 on the interests of Scheduled Castes and Scheduled Tribes, representations had been received against it by the Government from several quarters including the members of Parliament. Considering the various representations, the Government reviewed the position and decided to move a constitutional amendment with a view to restoring the relaxations

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<sup>579</sup> Bill No. 54 of 1999; Introduced as the Constitution (Eighty-eighth Amendment) Bill in Rajya Sabha by the Minister of State in the Department of Personnel and Training and Department of Pension and Pensioners' Welfare, Smt. Vasundhara Raje on 23 December 1999; Referred to the Standing Committee on Home Affairs; Report of the Committee presented: 28 July 2000; Debated, Rajya Sabha: 17 August 2000; Lok Sabha: 22 August 2000; President's Assent: 8 September 2000; Date of Gazette Notification: 8 September 2000; Date of Commencement: 8 September 2000.

which were withdrawn *vide* instructions issued by the Department of Personnel and Training on 22 July 1997.

The Bill sought to achieve the aforesaid object.

#### *Legislative History*

The Constitution (Eighty-second Amendment) Act, 2000, when introduced in the Rajya Sabha on 23 December 1999, was titled as the Constitution (Eighty-eighth Amendment) Bill, 1999<sup>580</sup>. It sought to amend article 335. The Bill was referred to the Standing Committee on Home Affairs. The Committee presented its Report to the Rajya Sabha and laid it on the table of the Lok Sabha on 28 July 2000. The Committee recommended that the Bill be passed in the present form.

Thereafter, the Bill was considered by the Rajya Sabha on 17 August 2000 and passed on the same day with a formal amendment changing the short title from “Eighty-eighth” to “Eighty-second”<sup>581</sup>. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 22 August 2000<sup>582</sup>.

#### *Important Provisions of the Act*

Article 335 of the Constitution of India provides for taking into consideration the claims of the Scheduled Castes and Scheduled Tribes to services and posts in connection with the affairs of the Union or of a State. A proviso has been inserted therein to specify that nothing in article 335 shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State. (Section 2)

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<sup>580</sup> R.S. Deb., 23 December 1999, p. 299.

<sup>581</sup> Ibid., 17 August 2000, pp. 711-773.

<sup>582</sup> L.S. Deb., 22 August 2000, cc. 357-438.

## LXXXIII

### THE CONSTITUTION (EIGHTY-THIRD AMENDMENT) ACT, 2000<sup>583</sup>

#### *Objects and Reasons of the Bill*

The Constitution (Seventy-third Amendment) Act, 1992 was brought into force with effect from 24 April 1993. The said Act provided that within one year from the date of commencement of that Act, all the States shall amend their local laws to bring them in conformity with the new provisions under the Constitution. This exercise was required to be completed before 23 April 1994.

Article 243D provides for reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Panchayat. Arunachal Pradesh is a State inhabited fully by indigenous tribal people. No Scheduled Castes exist in the State. Accordingly, no reservation of seats for the Scheduled Castes has been made in the State Legislative Assembly and no provision exists under any law to that effect. There is also no reservation for the Scheduled Castes in State Government services.

The Bengal Eastern Frontier Regulation, 1873 and the Chin Hills Regulation, 1896 provide special protection and safeguard for the peaceful existence of the indigenous tribal people of Arunachal Pradesh. These laws prohibit the entry of outsiders in the tribal area without “Inner Line Permit”. Only the indigenous tribal people are allowed to participate in the democratic processes.

The tribal society in Arunachal Pradesh is casteless where social equality among men and women has prevailed over centuries and ages. Since no Scheduled Castes exist in the State and the State of Arunachal Pradesh is singularly free from the caste system, it was

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<sup>583</sup> Bill No. 46 of 1999; Introduced as the Constitution (Eighty-sixth Amendment) Bill in Rajya Sabha by the Minister of Rural Development, Shri Sunder Lal Patwa on 17 December 1999; Referred to the Standing Committee on Urban and Rural Development; Report of the Committee presented: 26 July 2000; Debated, Rajya Sabha: 21 December 1999 and 17 August 2000; Lok Sabha: 22 August 2000; President’s Assent: 8 September 2000; Date of Gazette Notification: 8 September 2000; Date of Commencement: 8 September 2000.

proposed to insert a new clause (3A) in article 243M of the Constitution of India, to exempt the State of Arunachal Pradesh from the application of article 243D relating to the reservation of seats in Panchayats for the Scheduled Castes.

The Bill sought to provide a legal and constitutional basis for Panchayat Raj Institutions in Arunachal Pradesh in accordance with the socio-political ethos of the State.

#### *Legislative History*

The Constitution (Eighty-third Amendment) Act, 2000, when introduced in the Rajya Sabha on 17 December 1999, was titled as the Constitution (Eighty-sixth Amendment) Bill, 1999<sup>584</sup>. The Bill sought to amend article 243M of the Constitution. The Bill, as introduced, was referred to the Standing Committee on Urban and Rural Development. The Committee presented its Report to the Lok Sabha and laid it on the table of the Rajya Sabha on 26 July 2000. The Committee endorsed the said Bill and recommended that Parliament may consider to pass the Bill at the earliest so that the Panchayati Raj system in Arunachal Pradesh could be started as quickly as possible.

The Bill was considered by the Rajya Sabha on 21 December 1999<sup>585</sup> and passed on 17 August 2000 with a formal amendment changing the title from “Eighty-sixth” to “Eighty-third”<sup>586</sup>. The Bill, as passed by the Rajya Sabha, was considered and passed by the Lok Sabha on 22 August 2000<sup>587</sup>.

#### *Important Provisions of the Act*

Article 243M provides that the provisions of Part-IX of the Constitution of India relating to the Panchayats, shall not apply to certain areas. A new clause (3A) has been inserted therein to exempt the State of Arunachal Pradesh from the application of article 243D relating to the reservation of seats in Panchayats for the Scheduled Castes. (Section 2)

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<sup>584</sup> R.S. Deb., 17 December 1999, p. 239.

<sup>585</sup> Ibid., 21 December 1999, pp. 223-225.

<sup>586</sup> Ibid., 17 August 2000, pp. 773-809.

<sup>587</sup> L.S. Deb., 22 August 2000, cc. 438-466.

## LXXXIV

### THE CONSTITUTION (EIGHTY-FOURTH AMENDMENT) ACT, 2001<sup>588</sup>

#### *Objects and Reasons of the Bill*

The provisos to articles 82 and 170 (3) of the Constitution provide that no fresh readjustment of constituencies can be undertaken until the figures of the first census taken after the year 2000 are published. These provisions were inserted by the Constitution (Forty-second Amendment) Act, 1976 as a measure to boost family planning norms. Since the first census to be taken after the year 2000 has already begun the constitutional embargo on undertaking fresh delimitation will lapse as soon as the figures of this census are published.

There have been consistent demands, both for and against undertaking the exercise of fresh delimitation. Keeping in view the progress of family planning programmes in different parts of the country, the Government, as part of the National Population Policy strategy, decided to extend the current freeze on undertaking fresh delimitation up to the year 2026 as a motivational measure to enable the State Governments to pursue the agenda for population stabilisation.

The Government also decided to undertake readjustment and rationalization of territorial constituencies in the States, without altering the number of seats allotted to each State in the House of the People and Legislative Assemblies of the States, including the Scheduled Castes and the Scheduled Tribes constituencies, on the basis of the population

<sup>588</sup> Bill No. 172 of 2000; Introduced as the Constitution (Ninety-first Amendment) Bill in Lok Sabha by the Minister of Law, Justice and Company Affairs, Shri Arun Jaitley on 27 November 2000; Referred to Standing Committee on Home Affairs; Report of the Committee presented: 26 April 2001; Debated, Lok Sabha: 21 August 2001; Rajya Sabha: 23 August 2001; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Assam, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Sikkim, Uttar Pradesh and West Bengal; President's Assent: 21 February 2002; Date of Gazette Notification: 22 February 2002; Date of Commencement: 21 February 2002.

ascertained at the census for the year 1991, so as to remove the imbalance caused due to uneven growth of population/electorate in different constituencies.

It was also proposed to refix the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 1991.

The Bill sought to achieve the aforesaid objects.

#### *Legislative History*

The Constitution (Eighty-fourth Amendment) Act, 2001, when introduced in the Lok Sabha on 27 November 2000, was titled as the Constitution (Ninety-first Amendment) Bill, 2000<sup>589</sup>. It sought to amend articles 55, 81, 82, 170, 330 and 332 of the Constitution. The Bill was referred to the Standing Committee on Home Affairs. The Committee presented its Report to the Rajya Sabha and laid it on the table of the Lok Sabha on 26 April 2001. The Committee recommended that the Bill be passed in the present form.

Thereafter, the Bill was considered by the Lok Sabha on 21 August 2001 and was passed on the same day with a formal amendment changing the short title from “Ninety-first” to “Eighty-fourth”<sup>590</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 23 August 2001<sup>591</sup>.

#### *Important Provisions of the Act*

Articles 55, 81, 82, 170, 330 and 332 of the Constitution have been amended to substitute the figure “2026” for the figure “2000” in the respective clauses/provisos/explanations. Articles 81, 82, 170 and 330 have been further amended so as to replace the figure “1971” with “1991”. These amendments, *inter alia*, provide that population figures to be taken into account for the purpose of election of the President shall remain on the basis of 1971 census until the first census taken after the year 2026. Further they provide for readjustment of the

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<sup>589</sup> L.S. Deb., 27 November 2000, c. 369.

<sup>590</sup> Ibid., 21 August 2001, cc. 237-322.

<sup>591</sup> R.S. Deb., 23 August 2001, pp. 194-216, 217-248.

territorial constituencies in a State including those reserved for the Scheduled Castes and the Scheduled Tribes in connection with the House of People and the Legislative Assemblies of the States on the basis of 1991 census, without altering the total number of seats. They also provide that until the relevant figures for the first census taken after the year “2026” have been published, it shall not be necessary to readjust the allocation of seats in the House of the People and Legislative Assemblies of the States as readjusted on the basis of “1971” census and division of each State into territorial constituencies as may be readjusted on the basis of the “1991” census. (Sections 2 to 7)

## LXXXV

### **THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) ACT, 2001<sup>592</sup>**

#### *Objects and Reasons of the Bill*

The Government servants belonging to the Scheduled Castes and the Scheduled Tribes had been enjoying the benefit of consequential seniority on their promotion on the basis of rule of reservation. The judgments of the Supreme Court in the case of *Virpal Singh Chauhan* (1995) 6 S.C.C. 684 and *Ajit Singh No. 1 AIR 1996 S.C. 1189*, which led to the issue of the O.M. dated 30 January 1997, have adversely affected the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes in the matter of seniority on promotion to the next higher grade. This had led to considerable anxiety, and representations have also been received from various quarters including members of Parliament to protect the interest of the Government servants belonging to the Scheduled Castes and the Scheduled Tribes.

The Government reviewed the position in the light of views received from various quarters and in order to protect the interest of the

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<sup>592</sup> Bill No. 105 of 2001; Introduced as the Constitution (Ninety-second Amendment) Bill in Lok Sabha by the Minister of State in the Ministry of Personnel, Public Grievances and Pensions, Smt. Vasundhara Raje on 26 November 2001; Debated, Lok Sabha: 28 November 2001; Rajya Sabha: 5 December 2001; President’s Assent: 4 January 2002; Date of Gazette Notification: 4 January 2002; Date of Commencement: 17 June 1995.

Government servants belonging to the Scheduled Castes and the Scheduled Tribes, it was decided to negate the effect of O.M. dated 30 January 1997 immediately. Mere withdrawal of the O.M. dated 30 January 1997 would not meet the desired purpose and review or revision of the seniority of the Government servants and grant of consequential benefits to such Government servants would also be necessary. This required amendment to article 16(4A) of the Constitution to provide for consequential seniority in the case of promotion by virtue of rule of reservation. It was also necessary to give retrospective effect to the proposed constitutional amendment to article 16(4A) with effect from the date of coming into force of article 16(4A) itself, that is, from 17 June 1995.

The Bill sought to achieve the aforesaid object.

#### *Legislative History*

The Constitution (Eighty-fifth Amendment) Act, 2001, when introduced in the Lok Sabha on 26 November 2001, was titled as the Constitution (Ninety-second Amendment) Bill, 2001<sup>593</sup>. The Bill sought to amend article 16 of the Constitution.

The Bill was considered by the Lok Sabha on 28 November 2001 and passed on the same day with a formal amendment changing the short title from “Ninety-second” to “Eighty-fifth”<sup>594</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 5 December 2001<sup>595</sup>.

#### *Important Provisions of the Act*

The Act shall be deemed to have come into force on 17 June 1995. (Section 1)

Article 16 of the Constitution provides for equality of opportunity in matters of public employment. Clause (4A) of the article has been amended to provide the words “in matters of promotion, with consequential seniority, to any class” for the words “in matters of promotion to any class” in order to enable the State for making any provision for reservation in favour of the Scheduled Castes and the Scheduled Tribes, giving them the benefit of consequential seniority in matters of promotion to any class of classes of posts in the services under the State, if they are not adequately represented. (Section 2)

<sup>593</sup> L.S. Deb., 26 November 2001, cc. 304-305.

<sup>594</sup> Ibid., 28 November 2001, cc. 384-472.

<sup>595</sup> R.S. Deb., 5 December 2001, pp. 201-228, 229-240 and 241-270.

## LXXXVI

### THE CONSTITUTION (EIGHTY-SIXTH AMENDMENT) ACT, 2002<sup>596</sup>

#### *Objects and Reasons of the Bill*

The Constitution of India in a Directive Principle contained in article 45, has made provision for free and compulsory education for all children up to the age of fourteen years within ten years of promulgation of the Constitution. However, this goal could not be achieved even after 50 years of adoption of this provision. The task of providing education to all the children in this age group gained momentum after the National Policy of Education (NPE) was announced in 1986. The Government of India, in partnership with the State Governments, has made strenuous efforts to fulfil this mandate and, though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remained unfulfilled. In order to fulfil this goal, it was felt that an explicit provision should be made in the Part relating to Fundamental Rights of the Constitution.

With a view to making right to free and compulsory education a Fundamental Right, the Constitution (Eighty-third Amendment) Bill, 1997\* was introduced in Parliament to insert a new article, namely, article 21A conferring on all children in the age group of 6 to 14 years the right to free and compulsory education. The said Bill was scrutinised by the Parliamentary Standing Committee on Human Resource Development and the subject was also dealt with in its 165th Report by the Law Commission of India.

<sup>596</sup> Bill No. 106 of 2001; Introduced as the Constitution (Ninety-third Amendment) Bill in Lok Sabha by the Minister of Human Resource Development, Dr. Murli Manohar Joshi on 26 November 2001; Debated, Lok Sabha: 28 November 2001 and 27 November 2002; Rajya Sabha: 14 May 2002; President's Assent: 12 December 2002; Date of Gazette Notification: 13 December 2002; Date of Commencement: Yet to be fixed.

\* For the Text *see* the Constitution (Eighty-third Amendment) Bill, 1997 in Annexure (B) and for the Legislative History of the Bill *see* Chapter III.

After taking into consideration the report of the Law Commission of India and the recommendations of the Standing Committee of Parliament, the proposed amendments in Part III, Part IV and Part IVA of the Constitution were as follows:

- (a) to provide for free and compulsory education to children in the age group of 6 to 14 years and for this purpose, a legislation would be introduced in Parliament after the Constitution (Ninety-third Amendment) Bill, 2001 is enacted;
- (b) to provide in article 45 of the Constitution that the State shall endeavour to provide early childhood care and education to children below the age of six years; and
- (c) to amend article 51A of the Constitution with a view to providing that it shall be the obligation of the parents to provide opportunities for education to their children.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Eighty-sixth Amendment) Act, 2002, when introduced in the Lok Sabha on 26 November 2001, was titled as the Constitution (Ninety-third Amendment) Bill, 2001<sup>597</sup>. It sought to insert a new article 21A in the Constitution.

The Bill was considered by the Lok Sabha on 28 November 2001 and passed on the same day with a formal amendment changing the short title from “Ninety-third” to “Eighty-sixth”<sup>598</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha with amendments in clause 1(1) substituting the figure “2002” for “2001” and in the Enacting Formula substituting “Fifty-third” for “Fifty-second” on 14 May 2002<sup>599</sup>. The Bill, as amended by the Rajya Sabha, was agreed to and passed by the Lok Sabha on 27 November 2002<sup>600</sup>.

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<sup>597</sup> *L.S. Deb.*, 26 November 2001, cc. 349-350.

<sup>598</sup> *Ibid.*, 28 November 2001, cc. 472-620.

<sup>599</sup> *R.S. Deb.*, 14 May 2002, pp. 196-234, 235-352.

<sup>600</sup> *L.S. Deb.*, 27 November 2002, cc. 457-507.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new article 21A has been inserted after article 21 of the Constitution providing that 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. (Section 2)

Article 45 of the Constitution has been substituted now providing that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years. Earlier the provision was for ensuring free and compulsory education for all children until they complete the age of fourteen years. (Section 3)

A new clause (k) has been inserted in article 51A providing that it shall be the duty of every citizen of India “who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years”. (Section 4)

## LXXXVII

### THE CONSTITUTION (EIGHTY-SEVENTH AMENDMENT) ACT, 2003<sup>601</sup>

*Objects and Reasons of the Bill*

Pursuant to the enactment of the Constitution (Eighty-fourth Amendment) Act, 2001, the Delimitation Act, 2002 was enacted to constitute a Delimitation Commission for giving effect to the purposes of the said constitutional amendment. The Delimitation Commission was accordingly constituted on 12 July 2002 with Justice Kuldip Singh, a retired Judge of the Supreme Court as its Chairperson and

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<sup>601</sup> Bill No. 31 of 2003; Introduced as the Constitution (Ninety-sixth Amendment) Bill in Lok Sabha by the Minister of Law and Justice, Shri Arun Jaitley on 2 May 2003; Debated, Lok Sabha: 6 May 2003; Rajya Sabha: 8 May 2003; President's Assent: 22 June 2003; Date of Gazette Notification: 24 June 2003; Date of Commencement: 22 June 2003.

Shri B.B. Tandon, Election Commissioner in the Election Commission of India and concerned State Election Commissioners as its *ex officio* members. The main task of the Commission was to readjust the territorial constituencies in the House of the People with regard to the seats allocated to each State and the readjustment of territorial constituencies of the Legislative Assembly of each State. The rationalization of the constituencies as now provided had to be on the basis of the 1991 census figures. The Commission was entrusted with the function of also refixing the number of seats reserved for the Scheduled Castes and the Scheduled Tribes on the basis of census of 1991. The Commission started functioning with the secretarial assistance from the Election Commission of India and was expected to complete its work within two years.

The Delimitation Commission in its letter to the Government had stated that in the light of views expressed by various intellectuals including lawyers, political thinkers and other experts, the delimitation, which was being done after a gap of thirty years, should not be done on the basis of the out-dated figures of 1991 census.

An all-party meeting was held on 13 March 2003 on the functioning of the Delimitation Commission in which many political parties expressed the view that the delimitation of Parliamentary and Assembly constituencies should be done on the basis of 2001 census. It was, therefore, decided in the said meeting that if any political party had any suggestion with regard to alteration of the applicable census from 1991 to the year 2001, it might send the same in writing to the Minister of Law and Justice. Some major political parties which responded were in favour of 2001 census being the basis of delimitation.

Accordingly, it was decided to provide for readjustment of electoral constituencies, including those reserved for the Scheduled Castes and the Scheduled Tribes, based on the population census for the year 2001, without affecting the number of seats allocated to States in the legislative bodies.

The Bill sought to achieve the objects mentioned above.

#### *Legislative History*

The Constitution (Eighty-seventh Amendment) Act, 2003, when introduced in the Lok Sabha on 2 May 2003, was titled as the

Constitution (Ninety-sixth Amendment) Bill 2003<sup>602</sup>. The Bill sought to amend articles 81, 82, 170 and 330 of the Constitution.

The Bill was considered by the Lok Sabha on 6 May 2003 and passed on the same day with a formal amendment changing the short title from “Ninety-sixty” to “Eighty-seventh”<sup>603</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 8 May 2003<sup>604</sup>.

*Important Provisions of the Act*

Articles 81, 82, 170 and 330 have been amended substituting the figure “1991” with the figure “2001” for the readjustment of electoral constituencies including those reserved for the Scheduled Castes and the Scheduled Tribes on the basis of 2001 census in relation to the House of the People and the Legislative Assemblies of States. According to amendment in article 82, until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust the division of each State into territorial constituencies as may be readjusted on the basis of 2001 census. (Sections 2 to 5)

## LXXXVIII

### **THE CONSTITUTION (EIGHTY-EIGHTH AMENDMENT) ACT, 2003<sup>605</sup>**

*Objects and Reasons of the Bill*

At present, the item relating to ‘taxes on services’ is not specifically mentioned in any entry either in the Union List or the State List of the

<sup>602</sup> L.S. Deb., 2 May 2003, cc. 322-334.

<sup>603</sup> Ibid., 6 May 2003, cc. 335-422.

<sup>604</sup> R.S. Deb, 8 May 2003, pp. 233-256, 282-309.

<sup>605</sup> Bill No. 14 of 2003; Introduced as the Constitution (Ninety-fifth Amendment) Bill in Lok Sabha by the Minister of Finance and Company Affairs, Shri Jaswant Singh on 7 March 2003; Debated, Lok Sabha: 6 May 2003; Rajya Sabha: 8 May 2003; Ratified as per requirement of proviso to article 368(2) of the Constitution by the following State Legislatures, namely, Andhra Pradesh, Assam, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal; President’s Assent: 15 January 2004; Date of Gazette Notification: 16 January 2004; Date of Commencement: Yet to be fixed.

Seventh Schedule to the Constitution. Parliament has the exclusive power to make laws with respect to Entry 97 of the Union List for any other matters not enumerated in List II or List III including any tax not mentioned in either of those Lists. In exercise of this power, the Central Government has periodically made certain services taxable at the rate of five per cent *ad valorem*.

The States have taken a unanimous decision to replace their existing sales tax system with the system of Value Added Tax (VAT) from 1 April 2003. In this context, with a view to widening their tax base, the States have suggested that they should be enabled to collect and appropriate tax on services.

The “service” sector accounted for 48.5 per cent of the country’s Gross Domestic Product (GDP) in the financial year 2000-2001. The role of this sector in the economy is quite significant. Expert Committees set up by the Central Government have repeatedly recommended taxation of services. On the basis of the deliberations between the State Governments and the Central Government and in view of the recommendations of various Expert Committees, it was proposed to suitably amend the Constitution to provide: (i) tax on services as a specific entry in the Union List; (ii) insertion of a new article, namely, article 268A; and (iii) consequential amendment to article 270, to enable Parliament to formulate by law the principles for determining the modalities of levying the said tax by the Central Government and collection of the proceeds thereof by the Central Government and the States.

The proposed amendment would help in significant augmentation of revenues of the States in accordance with the proposed law, and pave the way for eventual inclusion of services within the purview of State level VAT.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Eighty-eighth Amendment) Act, 2003, when introduced in the Lok Sabha on 7 March 2003, was titled as the Constitution (Ninety-fifth Amendment) Bill, 2003<sup>606</sup>. The Bill sought to insert a new article 268A in the Constitution.

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<sup>606</sup> L.S. Deb., 7 March 2003, cc. 355-357.

The Bill was considered by the Lok Sabha on 6 May 2003 and was passed on the same day with a formal amendment changing the short title from “Ninety-fifth” to “Eighty-eighth”<sup>607</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 8 May 2003<sup>608</sup>.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new article 268A has been inserted in the Constitution providing that taxes on services shall be levied by the Government of India. The proceeds of any such tax levied in any financial year, shall be collected and appropriated by the Government of India and the States in accordance with such principles of collection and appropriation as may be formulated by Parliament by law. The amendment of article 270 is of consequential nature. (Sections 2-3)

Section 4 provided for inclusion of Entry, “92C. Taxes on services” in List I—Union List in the Seventh Schedule to the Constitution.

## LXXXIX

### THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003<sup>609</sup>

*Objects and Reasons of the Bill*

The National Commission for the Scheduled Castes and Scheduled Tribes came into being consequent upon passing of the Constitution (Sixty-fifth Amendment) Act, 1990. The said Commission was

<sup>607</sup> *Ibid.*, 6 May 2003, cc. 268-335.

<sup>608</sup> *R.S. Deb.*, 8 May 2003, pp. 205-208, 210-233 and 256-281.

<sup>609</sup> Bill No. 94 of 2002; Introduced as the Constitution (Ninety-fourth Amendment) Bill in Lok Sabha by the Minister of Tribal Affairs, Shri Jual Oram on 20 December 2002; Referred to the Standing Committee on Labour and Welfare; Report of the Committee presented: 11 March 2003; Debated, Lok Sabha: 8 August 2003; Rajya Sabha: 19 August 2003; President’s Assent: 28 September 2003; Date of Gazette Notification: 30 September 2003; Date of Commencement: 19 February 2004.

constituted on 12 March 1992 replacing the Commission for the Scheduled Castes and Scheduled Tribes set up under the resolution of 1987. Under article 338 of the Constitution, the National Commission for the Scheduled Castes and Scheduled Tribes was established with the objective of monitoring all the safeguards provided for the Scheduled Castes and the Scheduled Tribes under the Constitution or other laws.

Geographically and culturally, the Scheduled Tribes are different from the Scheduled Castes and their problems are also different from the Scheduled Castes. In October 1999, a new Ministry of Tribal Affairs was created to provide a sharp focus to the welfare and development of the Scheduled Tribes. It was felt necessary that the Ministry of Tribal Affairs should co-ordinate all activities relating to the Scheduled Tribes as it would not be administratively feasible for the Ministry of Social Justice and Empowerment to perform this role. In order to safeguard the interests of the Scheduled Tribes more effectively, it was proposed to also set up a separate National Commission for the Scheduled Tribes by bifurcating the existing National Commission for the Scheduled Castes and Scheduled Tribes. The new Commission for the Scheduled Tribes shall consist of a Chairperson and two other Members and the National Commission for the Scheduled Castes shall consist of a Chairperson, Vice-Chairperson and three other Members. Accordingly, article 338 of the Constitution was required to be modified by amending article 338 and inserting new article 338A.

The Bill sought to achieve the aforesaid object.

#### *Legislative History*

The Constitution (Eighty-ninth Amendment) Act, 2003, when introduced in the Lok Sabha on 20 December 2002, was titled as the Constitution (Ninety-fourth Amendment) Bill, 2002<sup>610</sup>. The Bill sought to amend article 338 of the Constitution. The Bill was referred to the Standing Committee on Labour and Welfare. The Committee presented its Report to the Lok Sabha and laid it on the table of Rajya Sabha on 11 March 2003. Thereafter the Bill was considered by the Lok Sabha on 8 August 2003<sup>611</sup>. During the consideration of the Bill, accepting

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<sup>610</sup> L.S. Deb., 20 December 2002, cc. 418-422.

<sup>611</sup> Ibid., 8 August 2003, cc. 273-357.

the recommendation of the Committee for substituting clauses (2) and (3) of the newly proposed article 338A, the Minister of Tribal Affairs Shri Jual Oram, moved a motion for inclusion of the words “Vice-Chairperson” and “three” in place of “two” other Members in order to bring the composition of the National Commission for the Scheduled Tribes at par with the National Commission for the Scheduled Castes<sup>612</sup>.

The Bill, as amended, was passed by Lok Sabha on 16 December 2003<sup>613</sup> with a formal amendment changing the short title from “Ninety-fourth” to “Eighty-ninth”. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 19 August 2003<sup>614</sup>.

#### *Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

Article 338 has been amended substituting the existing marginal heading by the “National Commission for Scheduled Castes”. Clause (1) has been substituted now providing *inter alia* that there shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes. In clauses (5), (9) and (10), the words “and Scheduled Tribes”, wherever they occurred, have been omitted. (Section 2)

A new section 338A has been inserted providing *inter alia* that there shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes. The Chairperson, Vice-Chairperson and three other Members of the Commission shall be appointed by the President. The duty of the Commission shall be, *inter alia*, to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes and to evaluate the working of such safeguards; to inquire into specific complaints with respect to the deprivation of rights and safeguards; to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development; to present to

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<sup>612</sup> *Ibid.*, c. 324.

<sup>613</sup> *Ibid.*, c. 357.

<sup>614</sup> *R.S. Deb.*, 19 August 2003, pp. 207-263.

the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards, etc.; to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, by rule, specify. (Section 3)

The President shall cause all reports to be laid before each House of Parliament. Among other things, the Commission shall while investigating any matter referred to therein, have all the powers of a Civil Court trying a suit. The Union and every State Government shall consult the Commission on all major policy matters affecting the Scheduled Tribes. (Section 3)

## XC

### **THE CONSTITUTION (NINETIETH AMENDMENT) ACT, 2003<sup>615</sup>**

#### *Objects and Reasons of the Bill*

Article 332 of the Constitution of India provides for reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States. Clause (6) of article 332 stipulates that 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.

In pursuance of the Memorandum of Settlement signed on 10 February 2003 between the Government of India, Government of Assam and Bodo Liberation Tigers, and to protect the rights of the non-tribals, the existing representation of the Scheduled Tribes and non-Scheduled Tribes in the Legislative Assembly of the State of Assam

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<sup>615</sup> Bill No. 38 of 2003; Introduced as the Constitution (Ninety-ninth Amendment) Bill in Lok Sabha by the Deputy Prime Minister, Shri L.K. Advani on 9 May 2003; Referred to the Standing Committee on Home Affairs; Report of the Committee presented: 22 July 2003; Debated, Lok Sabha: 8 August 2003; Rajya Sabha: 19 August 2003; President's Assent: 28 September 2003; Date of Gazette Notification: 30 September 2003; Date of Commencement: 28 September 2003.

from the Bodoland Territorial Council Areas District, was proposed to be kept intact. It was, therefore, proposed to insert a proviso in clause (b) of article 332 of the Constitution.

The Bill sought to achieve the said objectives.

#### *Legislative History*

The Constitution (Ninetieth Amendment) Act, 2003, when introduced in the Lok Sabha on 9 May 2003, was titled as the Constitution (Ninety-ninth Amendment) Bill, 2003<sup>616</sup>. It sought to amend article 332 of the Constitution. The Bill was referred to the Standing Committee on Home Affairs. The Committee presented its Report to the Rajya Sabha and laid it on the table of the Lok Sabha on 22 July 2003. The Committee recommended that the Bill be passed in the original form.

The Bill was considered by the Lok Sabha on 8 August 2003 and passed on the same day with a formal amendment changing the short title from “Ninety-ninth” to “Ninetieth”<sup>617</sup>. Clause 2 of the Bill was also substituted, on a motion moved by the Minister of State in the Ministry of Home Affairs, Shri Swami Chinmayanand, replacing the words “the Bodoland Territorial Council Areas District” by the words “the Bodoland Territorial Areas District” at two places in the proposed proviso to clause (6) of article 332<sup>618</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 19 August 2003<sup>619</sup>.

#### *Important Provisions of the Act*

Article 332 of the Constitution has been amended inserting a proviso providing that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Areas District, shall be maintained. (Section 2)

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<sup>616</sup> L.S. Deb., 9 May 2003, c. 351.

<sup>617</sup> Ibid., 8 August 2003, cc. 292-301, 357-392.

<sup>618</sup> Ibid., c. 370.

<sup>619</sup> R.S. Deb., 19 August 2003, pp. 235-263.

## XCI

### THE CONSTITUTION (NINETY-FIRST AMENDMENT) ACT, 2003<sup>620</sup>

#### *Objects and Reasons of the Bill*

Demands have been made from time to time in certain quarters for strengthening and amending the Anti-defection Law as contained in the Tenth Schedule to the Constitution of India, on the ground that these provisions have not been able to achieve the desired goal of checking defections. The Tenth Schedule has also been criticised on the ground that it allows bulk defections while declaring individual defections as illegal. The provision for exemption from disqualification in case of splits as provided in Paragraph 3 of the Tenth Schedule to the Constitution of India has, in particular, come under severe criticism on account of its destabilising effect on the Government.

The Committee on Electoral Reforms (Dinesh Goswami Committee) in its Report of May 1990, the Law Commission of India in its 170th Report on ‘Reform of Electoral Laws’ (1999) and the National Commission to Review the Working of the Constitution (NCRWC) in its Report of 31 March 2002 have, *inter alia*, recommended omission of the said Paragraph 3 of the Tenth Schedule to the Constitution of India pertaining to exemption from disqualification in case of splits. The NCRWC was also of the view that a defector should be penalised for his action by debarring him from holding any public office as a Minister or any other remunerative political post for at least the duration of the remaining term of the existing Legislature or until the next fresh elections, whichever is earlier. It was proposed to accept these suggestions.

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<sup>620</sup> Bill No. 32 of 2003; Introduced as the Constitution (Ninety-seventh Amendment) Bill in Lok Sabha by the Minister of Law and Justice, Shri Arun Jaitley on 5 May 2003; Referred to Standing Committee on Home Affairs; Report of the Committee presented: 5 December 2003; Debated, Lok Sabha: 16 December 2003; Rajya Sabha: 18 December 2003; President’s Assent: 1 January 2004; Date of Gazette Notification: 2 January 2004; Date of Commencement: 1 January 2004.

The NCRWC also observed that abnormally large Councils of Ministers were being constituted by various Governments at the Centre and in the States. This practice had to be prohibited by law and that a ceiling on the number of Ministers in a State or the Union Government be fixed at the maximum of 10 per cent of the total strength of the popular House of the Legislature.

In the light of the above said, it was proposed to amend the Constitution by omitting Paragraph 3 of Tenth Schedule to the Constitution of India and to provide that the size of the Council of Ministers should not be more than 10 percent of the strength of House or Houses concerned whether unicameral or bicameral. However, in case of smaller States like Sikkim, Mizoram and Goa having 32, 40 and 40 members in the Legislative Assemblies, respectively, a minimum strength of 7 Ministers was proposed.

The Bill sought to achieve the objects mentioned above.

#### *Legislative History*

The Constitution (Ninety-first Amendment) Act, 2003, when introduced in the Lok Sabha on 5 May 2003, was titled as the Constitution (Ninety-seventh Amendment) Bill, 2003<sup>621</sup>. The Bill sought to amend articles 75 and 164 and to insert a new article 361B in the Constitution. The Bill was referred to the Standing Committee on Home Affairs. The Committee presented its Report to the Rajya Sabha and laid it on the table of the Lok Sabha on 5 December 2003. Thereafter, the Bill was considered by the Lok Sabha on 16 December 2003<sup>622</sup>. During consideration of the Bill, certain amendments including those recommended by the Committee on Home Affairs, were moved by the Minister of Law and Justice, Shri Arun Jaitley and adopted by the House:

#### *Article 75*

Accepting the recommendation of the Standing Committee on Home Affairs, the proposed new clause (1A) in article 75 was substituted to

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<sup>621</sup> L.S. Deb., 5 May 2003, cc. 363-365.

<sup>622</sup> Ibid., 16 December 2003, cc. 313-446.

replace the words “ten per cent of the total number of members of both House of Parliament” by the words “fifteen per cent of the total members of the House of the People” in connection with the ceiling on the number of Ministers in the Council of Ministers at the Centre with a view to ensure uniformity of law in the country.

Accepting the recommendation of the Standing Committee, the proposed new clause (1B) in article 75 was also substituted. Clause (1B), as introduced in the Lok Sabha, provided as follows:

A member of either House of Parliament belonging to any political party who is disqualified for being 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 till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier.

The aforesaid clause was substituted so as to provide for the words “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” in place of the words “or till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier”<sup>623</sup>. This was done with a view to provide that the disqualification on ground of defection as specified under Paragraph 2 of Tenth Schedule shall be removed only when the member wins an election to any House of Parliament.

#### *Article 164*

As recommended by the Standing Committee on Home Affairs, the proposed new clause (1A) in article 164 in connection with the ceiling on the number of Ministers in the Council of Ministers in a State was substituted to replace the words, “ten per cent of the total number of members of the Legislative Assembly of that State or, in case of a

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<sup>623</sup> *Ibid.*, cc. 371-385.

State having a Legislative Council, the total number of both Houses of the Legislature of that State” by the words “fifteen per cent of the total number of members of the Legislative Assembly of that State” with a view to ensure uniformity of law in the country. In the proviso to the said clause, for the figure “seven”, “twelve” was substituted now providing that the number of Ministers including the Chief Minister in a State shall not be less than twelve. This was done keeping in mind the equal workload, gamut of functions, etc. in all the States irrespective of their size.

The Government also proposed and moved a motion for insertion of a new proviso to the proposed new clause (1A) in article 164. Accordingly, a new proviso was inserted to clause (1A), which read as follows:

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

Accepting the recommendation of the Standing Committee on Home Affairs, the proposed new clause (1B) in article 164 was also substituted. Clause (1B), as introduced in the Lok Sabha, provided as follows:

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 till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier.

The aforesaid clause was substituted to replace the words “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” by the words “or till the date on which he contests an election to any House of Parliament or Legislature of a State, whichever is earlier”<sup>624</sup>. This was done with a view to provide that the disqualification on ground of defection as specified under Paragraph 2 of Tenth Schedule is removed only when he/she wins an election to the Legislature of a State.

#### *Article 361B*

Accepting the recommendations of the Standing Committee on Home Affairs, the proposed new article 361B was also substituted. The said article, as introduced in the Lok Sabha, read as follows:

361B. A member of a House belonging to any political party who is disqualified for being a member of the House under Paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House, whichever is earlier.

The aforesaid article was substituted so as to replace the words “to a House, whichever is earlier” by the words “to a House and is declared elected, whichever is earlier”. This was done with a view to provide that the disqualification on ground of defection as given under Paragraph 2 of Tenth Schedule is removed only when he/she wins an election to any House of Parliament or Legislature of a State.

Further, in the Explanation to article 361B, the expression “remunerative political post” was added which reads as follows:

(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

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<sup>624</sup> *Ibid.*, cc. 386-401.

- of the public revenue of the Government of India or the Government of the State, as the case may be; or
- (ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body.
- except where such salary or remuneration paid is compensatory in nature<sup>625</sup>.

The Bill, as amended, was passed by Lok Sabha on 16 December 2003 with a formal amendment changing the short title from “Ninety-seventh” to “Ninety-first”<sup>626</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 18 December 2003<sup>627</sup>.

#### *Important Provisions of the Act*

Article 75 of the Constitution has been amended so as to insert new clauses (1A) and (1B). Clause (1A) has provided that 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. Under clause (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. (Section 2)

Two new clauses (1A) and (1B) have also been inserted in article 164 of the Constitution. Clause (1A), *inter alia*, provides that the total number of Ministers, including the Chief Minister, in a State shall not exceed fifteen per cent of the total number of members of the Legislative Assembly of that State. The number of Ministers, including Chief Minister, in a State shall not be less than twelve.

<sup>625</sup> *Ibid.*, cc. 401-416.

<sup>626</sup> *Ibid.*, c. 446.

<sup>627</sup> R.S. Deb., 18 December 2003, pp. 247-311.

Under clause (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. (Section 3)

A new article 361B has been inserted which, *inter alia*, provides that 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. (Section 4)

The expression “remunerative political post” means any office 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 under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body, except where such salary or remuneration paid is compensatory in nature. (Section 4)

The Act provides for omission of Paragraph 3 of the Tenth Schedule to the Constitution thereby withdrawing the protection from disqualification on the ground of defection in case of split in the political party. Accordingly, the words and figures, “Paragraph 3, or, as the case may be,” have been omitted from clause (b) in Paragraph 1. In Paragraph 2, sub-paragraph (1), the words and figures “Paragraphs 3, 4 and 5”, have been substituted by “Paragraphs 4 and 5”. (Section 5)

## XCII

### **THE CONSTITUTION (NINETY-SECOND AMENDMENT) ACT, 2003<sup>628</sup>**

*Objects and Reasons of the Bill*

There have been demands for inclusion of certain languages in the Eighth Schedule to the Constitution. The Bill proposed to include Bodo language in the Eighth Schedule to the Constitution.

*Legislative History*

The Constitution (Ninety-second Amendment) Act, 2003, when introduced in the Lok Sabha on 18 August 2003, was titled as the Constitution (One-hundredth Amendment) Bill, 2003<sup>629</sup>. The Bill sought to amend the Eighth Schedule to the Constitution. The Bill, as introduced, was referred to the Standing Committee on Home Affairs. The Committee presented its Report to the Rajya Sabha and laid it on the table of the Lok Sabha on 5 December 2003. The Committee recommended that the Bill be passed in the present form.

The Bill was considered by the Lok Sabha on 22 December 2003 and passed on the same day with a formal amendment changing the short title from “One-hundredth” to “Ninety-second”<sup>630</sup>. During the consideration of the Bill, apart from “Bodo” language, it was accepted by the Government<sup>631</sup> to include three other languages, namely, “Santhali”, “Maithili” and “Dogri” to the Eighth Schedule. An amendment to that effect was moved by the Deputy Prime Minister,

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<sup>628</sup> Bill No. 63 of 2003; Introduced as the Constitution (One-hundredth Amendment) Bill in Lok Sabha by the Deputy Prime Minister, Shri L.K. Advani on 18 August 2003; Referred to Standing Committee on Home Affairs; Report of the Committee presented: 5 December 2003; Debated, Lok Sabha: 22 December 2003; Rajya Sabha: 23 December 2003; President’s Assent: 7 January 2004; Date of Gazette Notification: 8 January 2004; Date of Commencement: 7 January 2004.

<sup>629</sup> *L.S. Deb.*, 18 August 2003, cc. 279-280.

<sup>630</sup> *Ibid.*, 22 December 2003, cc. 378-428.

<sup>631</sup> *Ibid.*, c. 379.

Shri L.K. Advani and adopted by the House<sup>632</sup>. The newly substituted section 2 now provided for inclusion of “Bodo” language as Entry No. 3, “Dogri” as Entry No. 4, “Maithili” as Entry No. 10 and “Santhali” as Entry No. 18 and also for consequential re-numbering of the existing entries, accordingly. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 23 December 2003<sup>633</sup>.

*Important Provisions of the Act*

The Act has re-numbered the existing Entry 3 as Entry 5 in the Eighth Schedule to the Constitution so as to provide for inclusion of Entries number 3. Bodo and 4. Dogri, respectively, before Entry 5 as so re-numbered. Existing Entry 8 has been re-numbered as Entry 11, and Entry 10. Maithili has been inserted before Entry 11 as so re-numbered. Existing Entry 15 has been re-numbered as Entry 19, and Entry 18 Santhali has been inserted before Entry 19 as so re-numbered. Other changes are of consequential nature. (Section 2)

## XCIII

### **THE CONSTITUTION (NINETY-THIRD AMENDMENT) ACT, 2005<sup>634</sup>**

*Objects and Reasons of the Bill*

Greater access to higher education including professional education, to a larger number of students belonging to the socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes, has been a matter of major concern. The reservation of seats for the Scheduled Castes, the Scheduled Tribes and the other backward classes of citizens (OBCs) in admission to educational institutions is derived from the provisions of clause (4) of article 15. At present, the

<sup>632</sup> *Ibid.*, cc. 404-405.

<sup>633</sup> *R.S. Deb.*, 23 December 2003, pp. 249-296.

<sup>634</sup> Bill No. 160 of 2005; Introduced as the Constitution (One hundred-fourth Amendment) Bill in Lok Sabha by the Minister of Human Resource Development, Shri Arjun Singh on 20 December 2005; Debated, Lok Sabha: 21 December 2005; Rajya Sabha: 22 December 2005; President’s Assent: 20 January 2006; Date of Gazette Notification: 20 January 2006; Date of Commencement: 20 January 2006.

number of seats available in aided or State maintained institutions, particularly in respect of professional education, is limited in comparison to those in private unaided institutions.

It has been laid down in article 46, as a Directive Principle of State Policy that the State shall promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice. Access to education is important in order to ensure advancement of persons belonging to the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes also referred to as the OBCs.

Clause (1) of article 30 provide the right to all minorities to establish and administer educational institutions of their choice. It is essential that the rights available to minorities are protected in regard to institutions established and administered by them. Accordingly, institutions declared by the State to be minority institutions under clause (1) of article 30 have been omitted from the operation of the proposal.

To promote the educational advancement of the socially and educationally backward classes of citizens, *i.e.* the OBCs or of the Scheduled Castes and Scheduled Tribes in matters of admission of students belonging to these categories in unaided educational institutions, other than the minority educational institutions referred to in clause (1) of article 30 of the Constitution, it was proposed to amplify article 15. The new clause (5) shall enable the Parliament as well as the State Legislatures to make appropriate laws for the purposes mentioned above.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Ninety-third Amendment) Act, 2003, when introduced in the Lok Sabha on 20 December 2005, was titled as the Constitution (One hundred-fourth Amendment) Bill, 2005<sup>635</sup>. It sought to amend article 15 of the Constitution.

The Bill was considered by the Lok Sabha on 21 December 2005 and passed on the same day with a formal amendment changing the

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<sup>635</sup> L.S. Deb., 20 December 2005, cc. 455-462.

short title from “One hundred-fourth” to “Ninety-third”<sup>636</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 22 December 2003<sup>637</sup>.

*Important Provisions of the Act*

The Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. (Section 1)

A new clause (5) has been inserted in article 15 of the Constitution providing that 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 insofar as it relates to their admission to educational institutions including the private ones whether aided or unaided by the State. The expression—“educational institutions” refers to those institutions which are other than the minority educational institutions referred to in clause (1) of article 30. (Section 2)

## XCIV

### **THE CONSTITUTION (NINETY-FOURTH AMENDMENT) ACT, 2006<sup>638</sup>**

*Objects and Reasons of the Bill*

The proviso to clause (1) of article 164 of the Constitution provided that there shall be a Minister in charge of tribal welfare who may, in addition, be incharge of the welfare of the Scheduled Castes and backward classes or any other work in the States of Bihar, Madhya Pradesh and Orissa.

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<sup>636</sup> *Ibid.*, 21 December 2005, cc. 452-641.

<sup>637</sup> *R.S. Deb.*, 22 December 2005, pp. 290-409.

<sup>638</sup> Bill No. 15 of 2006; Introduced as the Constitution (One hundred-fifth Amendment) Bill in Lok Sabha by the Home Minister, Shri Shivraj V. Patil on 1 March 2006; Debated, Lok Sabha: 17 and 22 May 2006; Rajya Sabha: 22 May 2006; President’s Assent: 12 June 2006; Date of Gazette Notification: 13 June 2006; Date of Commencement: 12 June 2006.

The new States of Chhattisgarh and Jharkhand came into being with the enactment of the Madhya Pradesh Reorganisation Act, 2000 and the Bihar Reorganisation Act, 2000, with effect from 1 November 2000 and 15 November 2000, respectively. Consequent upon the creation of the States of Chhattisgarh and Jharkhand, a sizable portion of the Scheduled Areas of the erstwhile State of Madhya Pradesh stood transferred to Chhattisgarh and the entire Scheduled Areas of the former Bihar State stood transferred to the newly formed Jharkhand State and the Scheduled Areas were redefined as per the Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order, 2003 (C.O. 192). Further, as per census figures of 2001, the percentage of the Scheduled Tribes population to total population in the four States were as follows:

	Name of the State	Percentage of the Scheduled Tribes Population to total
(i)	Bihar	0.9
(ii)	Jharkhand	26.3
(iii)	Chhattisgarh	31.8
(iv)	Madhya Pradesh	20.3

As there were no Scheduled Areas in Bihar now and the fraction of population of the Scheduled Tribes was very small, it was proposed to exclude Bihar from the purview of the said proviso and also proposed to extend the provisions of clause (1) of article 164 to the newly formed States of Chhattisgarh and Jharkhand.

The Bill sought to achieve the above objects.

#### *Legislative History*

The Constitution (Ninety-fourth Amendment) Act, 2006, when introduced in the Lok Sabha on 1 March 2006, was titled as the Constitution (One hundred-fifth Amendment) Bill, 2006<sup>639</sup>. The Bill sought to amend article 164 of the Constitution.

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<sup>639</sup> L.S. Deb., 1 March 2006, cc. 235-236.

The Bill was considered by the Lok Sabha on 17 May 2006<sup>640</sup> and passed on 22 May 2006 with a formal amendment changing the short title from “One hundred-fifth” to “Ninety-fourth”<sup>641</sup>. The Bill, as passed by the Lok Sabha, was considered and passed by the Rajya Sabha on 22 May 2006<sup>642</sup>.

*Important Provisions of the Act*

The Act has amended article 164 (1) of the Constitution providing that in the proviso, the words ‘Chhattisgarh, Jharkhand’ be substituted for the word ‘Bihar’. The said proviso makes provisions for a Minister to be in charge of tribal welfare in certain States. (Section 2)

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<sup>640</sup> *Ibid.*, 17 May 2006, cc. 452-460.

<sup>641</sup> *Ibid.*, 22 May 2006, cc. 507-550.

<sup>642</sup> *R.S. Deb.*, 22 May 2006.

# III

## THE CONSTITUTION AMENDMENT BILLS— REMOVED, LAPSED, WITHDRAWN OR NEGATIVED—LEGISLATIVE HISTORY—THEREOF

### *The Constitution (Fifth Amendment) Bill, 1955*

The Constitution (Fifth Amendment) Bill, 1955, which was introduced in the Lok Sabha on 21 November 1955<sup>1</sup>, sought to amend articles 3, 100, 101, 103, 148, 189, 190, 192, 276, 297, 311, 316 and 319 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the First Lok Sabha.

### *The Constitution (Sixth Amendment) Bill, 1955*

The Constitution (Sixth Amendment) Bill, 1955, which was introduced in the Lok Sabha on 21 November 1955<sup>2</sup>, sought to: (i) amend articles 49, 216 and 316 and Second and Seventh Schedules; (ii) substitute articles 220, 224 and 298 by new articles and (iii) insert a new article 258A in the Constitution.

The House was not able to consider the provisions of the aforesaid Bill by April 1956. At that time, certain amendments had to be made in the Constitution in order to implement the provisions contained in the States Reorganisation Bill, 1956<sup>3</sup>. Some of the amendments in the said Bill were related to the same matters which the Constitution (Sixth

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<sup>1</sup> *L.S. Deb.*, 21 November 1955, c. 5. The Bill was introduced by the Minister of Law and Minority Affairs, Shri C.C. Biswas.

<sup>2</sup> *L.S. Deb.*, 21 November 1955, c. 6. The Bill was introduced by the Minister of Law and Minority Affairs, Shri C.C. Biswas.

<sup>3</sup> The States Reorganisation Bill, 1956 was introduced in the Lok Sabha on 18 April 1956.

Amendment) Bill also referred to. Therefore, it became essential to change the entire outline of the Constitution (Sixth Amendment) Bill so as to fit in with the scheme that had then become necessary in consequence of the provisions of the States Reorganisation Bill. In order to save the time of the House and to carry out the business conveniently, it was considered desirable by the Government that the Constitution (Sixth Amendment) Bill, 1955 be withdrawn and replaced by another consolidated Bill which covered the entire grounds. Therefore, the Constitution (Sixth Amendment) Bill, 1955 was by the leave of the House, withdrawn on 18 April 1956<sup>4</sup>. The same day, a new Bill, then titled “The Constitution (Ninth Amendment) Bill, 1956”, was introduced in the Lok Sabha<sup>5</sup>. This Bill as amended, was eventually enacted as the Constitution (Seventh Amendment) Act, 1956<sup>6</sup>, which implemented the scheme of States’ reorganisation and also gave effect to certain other changes relating to the High Courts, High Court Judges, the executive powers of the Union and the States and the Legislative Lists in the Seventh Schedule to the Constitution.

### ***The Constitution (Seventh Amendment) Bill, 1955***

The Constitution (Seventh Amendment) Bill, 1955, which was introduced in the Lok Sabha on 28 November 1955<sup>7</sup>, sought to amend article 3 of the Constitution. However, the motion for reference of the Bill to a Select Committee, moved in the Lok Sabha on 30 November 1955, was lost as it did not obtain the support of the requisite majority as required by the Rules of Procedure of the House<sup>8</sup>. The required changes in article 3 were later effected by the Constitution (Fifth Amendment) Act, 1955<sup>9</sup>.

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<sup>4</sup> *L.S. Deb.*, 18 April 1956, cc. 5640-5650.

<sup>5</sup> *Ibid.*, c. 5651.

<sup>6</sup> For the Text see the Constitution (Seventh Amendment) Act, 1956 in Annexure (A).

<sup>7</sup> *L.S. Deb.*, 28 November 1955, c. 5. The Bill was introduced by the Ministry of Law and Minority Affairs, Shri C.C. Biswas.

<sup>8</sup> *Ibid.*, 30 November 1955, c. 890.

<sup>9</sup> For the Text see the Constitution (Fifth Amendment) Act, 1955 in Annexure (A).

***The Constitution (Seventeenth Amendment) Bill, 1963***

The Constitution (Seventeenth Amendment) Bill, 1963, which was introduced in the Lok Sabha on 6 May 1963<sup>10</sup>, sought to amend article 31A and the Ninth Schedule to the Constitution. On a motion moved in the Lok Sabha on 18 September which was adopted on 19 September 1963 and concurred in by the Rajya Sabha on 21 September 1963, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>11</sup>.

The Report of the Joint Committee was presented to the Lok Sabha on 25 March 1964<sup>12</sup>. The Committee suggested certain changes in the Enacting Formula, clauses 1, 2 and 3 of the Bill.

However, the motion for the consideration of the Bill, as reported by the Joint Committee, moved in the Lok Sabha on 28 April 1964, was lost as it was not carried by the requisite majority of the House as required by the Constitution<sup>13</sup>. On 27 May 1964 another Bill, the Constitution (Nineteenth Amendment) Bill, 1964, was introduced in the Lok Sabha for amending article 31A and the Ninth Schedule though not precisely on the same terms as those of the Constitution (Seventeenth Amendment) Bill, 1963. The Constitution (Nineteenth Amendment) Bill, 1964, as passed by Parliament, became the Constitution (Seventeenth Amendment) Act, 1964<sup>14</sup>.

***The Constitution (Eighteenth Amendment) Bill, 1964***

The Constitution (Eighteenth Amendment) Bill, 1964, which was introduced in the Lok Sabha on 24 April 1964, sought to amend article 359 of the Constitution<sup>15</sup>. On 28 April 1964, the Minister of Law stated in the Lok Sabha that the Government did not propose to

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<sup>10</sup> *L.S. Deb.*, 6 May 1963, cc. 14001-14002. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri R.M. Hajarnavis.

<sup>11</sup> *Ibid.*, 18 September 1963, cc. 6822-6823 and 19 September 1963, c. 7137; *R.S. Deb.*, 21 September 1963, c. 5254.

<sup>12</sup> *L.S. Deb.*, 25 March 1964, c. 7392.

<sup>13</sup> *Ibid.*, 28 April 1964, c. 13217.

<sup>14</sup> For the Text see the Constitution (Seventeenth Amendment) Act, 1964 in Annexure (A).

<sup>15</sup> *L.S. Deb.*, 24 April 1964, cc. 12501-12523. The Bill was introduced by the Minister of Law, Shri A.K. Sen.

proceed with the aforesaid Bill<sup>16</sup>. The Bill lapsed on the dissolution of the Third Lok Sabha.

### ***The Constitution (Nineteenth Amendment) Bill, 1966***

The Constitution (Nineteenth Amendment) Bill, 1966, which was introduced in the Lok Sabha on 9 May 1966<sup>17</sup>, sought to amend article 3 of the Constitution. However, the motion for the consideration of the Bill was lost as it was not carried in the Lok Sabha by the requisite majority on 16 May 1966<sup>18</sup>. The amendments proposed in the Bill were later incorporated in another Bill, introduced in the Lok Sabha on 25 July 1966, which was enacted as the Constitution (Eighteenth Amendment) Act, 1966<sup>19</sup>.

### ***The Constitution (Twenty-second Amendment) Bill, 1968***

The Constitution (Twenty-second Amendment) Bill, 1968, which was introduced in the Lok Sabha on 10 December 1968<sup>20</sup>, sought to:

- (i) insert new articles 244A and 371B in the Constitution and
- (ii) amend article 275 of the Constitution. On a motion, moved in the Lok Sabha on 20 December 1968, adopted on the same day and concurred in by the Rajya Sabha on 28 December 1968, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>21</sup>.

The Report of the Joint Committee on the Bill was presented to the Lok Sabha on 12 March 1969<sup>22</sup>. The Committee suggested certain amendments in the Enacting Formula and clauses 1 and 3 of the Bill.

<sup>16</sup> *Ibid.*, 28 April 1964, c. 13224.

<sup>17</sup> *L.S. Deb.*, 9 May 1966, cc. 15346-15348. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri Jaisukh Lal Hathi.

<sup>18</sup> *Ibid.*, 16 May 1966, c. 17121.

<sup>19</sup> For the Text see the Constitution (Eighteenth Amendment) Act, 1966 in Annexure (A).

<sup>20</sup> *L.S. Deb.*, 10 December 1968, c. 232. The Bill was introduced by the Minister of Home Affairs, Shri Y.B. Chavan.

<sup>21</sup> *Ibid.*, 20 December 1968, cc. 233-234, 287; *R.S. Deb.*, 28 December 1968, c. 6198.

<sup>22</sup> *L.S. Deb.*, 12 March 1969, cc. 199-200.

The Bill, as reported by the Joint Committee, was by leave of the House withdrawn on 2 April 1969<sup>23</sup>. Later on 10 April 1969, another Bill for amending article 275 and inserting new articles 244A and 371B was introduced in the Lok Sabha, which eventually became the Constitution (Twenty-second Amendment) Act, 1969<sup>24</sup>.

### ***The Constitution (Twenty-fourth Amendment) Bill, 1970***

The Constitution (Twenty-fourth Amendment) Bill, 1970, which was introduced in the Lok Sabha on 18 May 1970, sought to: (i) omit articles 291 and 362 and (ii) amend article 366, with a view to terminate the privy purses and privileges of the Rulers of former Indian States<sup>25</sup>.

The Bill was considered by the Lok Sabha on 1 and 2 September 1970 and, as amended, passed on 2 September 1970<sup>26</sup>. However, in the Rajya Sabha the motion for consideration of the Bill as passed by the Lok Sabha, was moved on 4 September and lost on 5 September 1970 as it failed to secure the requisite majority as prescribed under article 368 of the Constitution<sup>27</sup>. Later, another Bill for the same purpose was introduced in the Lok Sabha on 9 August 1971, and was eventually enacted as the Constitution (Twenty-sixth Amendment) Act, 1971<sup>28</sup>.

### ***The Constitution (Twenty-eighth Amendment) Bill, 1971***

The Constitution (Twenty-eighth Amendment) Bill, 1971, which was introduced in the Lok Sabha on 22 December 1971<sup>29</sup>, sought to amend articles 351, 353, 358 and 359 of the Constitution. Later, the Bill was removed from the Register of Bills as its provisions

<sup>23</sup> *Ibid.*, 2 April 1969, cc. 159-160.

<sup>24</sup> For the Text see the Constitution (Twenty-second Amendment) Act, 1969 in Annexure (A).

<sup>25</sup> *L.S. Deb.*, 18 May 1970, c. 275. The Bill was introduced by the Minister of Home Affairs, Shri Y.B. Chavan.

<sup>26</sup> *Ibid.*, 1-2 September 1970, cc. 249-352, 221-350.

<sup>27</sup> *R.S. Deb.*, 4-5 September 1970, cc. 33-168, 9-120.

<sup>28</sup> For the Text see the Constitution (Twenty-sixth Amendment) Act, 1971 in Annexure (A).

<sup>29</sup> *L.S. Deb.*, 22 December 1971, c. 2246. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri K.C. Pant.

were included in the Constitution (Forty-fourth Amendment) Bill, 1976 which was enacted as the Constitution (Forty-second Amendment) Act, 1976.

### ***The Constitution (Twenty-ninth Amendment) Bill, 1972***

The Constitution (Twenty-ninth Amendment) Bill, 1972, which was introduced in the Lok Sabha on 26 April 1972<sup>30</sup>, sought to amend article 31A of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Fifth Lok Sabha.

### ***The Constitution (Thirty-second Amendment) Bill, 1973***

The Constitution (Thirty-second Amendment) Bill, 1973 was introduced in the Lok Sabha on 16 May 1973<sup>31</sup>. The Bill sought to amend articles 75, 101, 102, 103, 164, 190, 191 and 192 of the Constitution with a view to: (i) disqualifying a political defector from his continued membership of the Legislature and (ii) provide that the Prime Minister and the Chief Ministers shall be members of the Lok Sabha and the Vidhan Sabhas, respectively.

On a motion moved in the Lok Sabha on 13 December 1973<sup>32</sup> and adopted on the same day, and concurred in by the Rajya Sabha on 17 December 1973<sup>33</sup>, the Bill was referred to a Joint Committee of the Houses of Parliament.

The Joint Committee was asked to make a Report on the Bill to the Lok Sabha by the last day of the first week of the Tenth Session. Later, extensions for presentation of the report were granted by the House on 25 July 1974, 20 February 1975, 25 July 1975 and 27 May 1976. On 30 August 1976 again, the Lok Sabha extended<sup>34</sup> the time for

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<sup>30</sup> L.S. Deb., 26 April 1972, c. 183. The Bill was introduced by the Minister of Law and Justice, Shri H.R. Gokhale.

<sup>31</sup> L.S. Deb., 16 May 1973, c. 37. The Bill was introduced by the Minister of Home Affairs, Shri Uma Shankar Dikshit.

<sup>32</sup> Ibid., 13 December 1973, cc. 168-241.

<sup>33</sup> R.S. Deb., 17 December 1973, cc. 113-139.

<sup>34</sup> L.S. Deb., 30 August 1976, c. 199.

presentation of the report of the Joint Committee upto the last day of the next session. The Joint Committee could not present its Report and the Bill lapsed on the dissolution of the Fifth Lok Sabha.

#### ***The Constitution (Forty-first Amendment) Bill, 1975***

The Constitution (Forty-first Amendment) Bill, 1975, which was introduced in the Rajya Sabha on 9 August 1975<sup>35</sup>, sought to amend article 361 of the Constitution.

The Bill was considered by the Rajya Sabha on 9 August 1975 and passed<sup>36</sup> on the same day with a formal amendment changing its short title to “The Constitution (Fortieth Amendment) Act, 1975”. The Bill, as passed by the Rajya Sabha, was laid on the table of the Lok Sabha on 5 January 1976.<sup>37</sup> But the Bill could not be taken up for consideration by the Lok Sabha and lapsed on the dissolution of the Fifth Lok Sabha.

#### ***The Constitution (Forty-third Amendment) Bill, 1977***

The Constitution (Forty-third Amendment) Bill, 1977 was introduced in the Lok Sabha on 7 April 1977<sup>38</sup>. The Bill sought to: (i) amend articles 83, 172, 329 and 371F and (ii) omit articles 31D and 329A of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Sixth Lok Sabha.

#### ***The Constitution (Forty-sixth Amendment) Bill, 1978***

The Constitution (Forty-sixth Amendment) Bill, 1978 was introduced in the Lok Sabha on 3 August 1978<sup>39</sup>. The Bill sought to: (i) substitute new articles 338 and 338A for the existing article 338 and (ii) omit article 350B of the Constitution. The motion for

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<sup>35</sup> R.S. Deb, 9 August 1975, cc. 1-2. The Bill was introduced by the Minister of Law, Justice and Company Affairs, Shri H.R. Gokhale.

<sup>36</sup> Ibid., cc. 53-58.

<sup>37</sup> L.S. Deb., 5 January 1976, c. 71.

<sup>38</sup> Ibid., 7 April 1977, c. 52. The Bill was introduced by the Minister of Law, Justice and Company Affairs, Shri Shanti Bhushan.

<sup>39</sup> Ibid., 3 August 1977, c. 258. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri Dhanik Lal Mandal.

consideration of the Bill, which was moved on 16 May 1979<sup>40</sup>, was put to vote of the House on 17 May 1979 and lost as it was not carried by the requisite majority<sup>41</sup>, as stipulated in the Constitution.

***The Constitution (Forty-seventh Amendment) Bill, 1978***

The Constitution (Forty-seventh Amendment) Bill, 1978 was introduced in the Lok Sabha on 11 August 1978<sup>42</sup>. The Bill sought to amend article 239A of the Constitution. A motion to consider the Bill was moved in the House on 8 May 1979<sup>43</sup>, but the debate on the Bill was adjourned<sup>44</sup> on another motion moved by a member under rule 109 of the Rules of Procedure and adopted on the same day and the Bill lapsed on the dissolution of the Sixth Lok Sabha.

***The Constitution (Forty-ninth Amendment) Bill, 1979***

The Constitution (Forty-ninth Amendment) Bill, 1979 was introduced in the Lok Sabha on 15 March 1979<sup>45</sup>. The Bill sought to amend articles 269, 286 and 366 and the Seventh Schedule to the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Sixth Lok Sabha.

***The Constitution (Fiftieth Amendment) Bill, 1979***

The Constitution (Fiftieth Amendment) Bill, 1979 was introduced in the Lok Sabha on 18 May 1979<sup>46</sup>. The Bill sought to amend the Seventh Schedule to the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Sixth Lok Sabha.

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<sup>40</sup> *Ibid.*, 16 May 1979, c. 363.

<sup>41</sup> *Ibid.*, 17 May 1979, cc. 355-361.

<sup>42</sup> *Ibid.*, 11 August 1978, c. 228. The Bill was introduced by the Minister of State in the Ministry of Home Affairs and in the Ministry of Law, Justice and Company Affairs, Shri S.D. Patil.

<sup>43</sup> *Ibid.*, 8 May 1979, cc. 289-291.

<sup>44</sup> *Ibid.*, c. 361.

<sup>45</sup> *Ibid.*, 15 March 1979, c. 244. The Bill was introduced by the Minister of State in the Ministry of Finance, Shri Satish Agarwal.

<sup>46</sup> *Ibid.*, 18 May 1979, c. 314. The Bill was introduced by the Minister of Agriculture and Irrigation, Shri Surjit Singh Barnala.

***The Constitution (Forty-seventh Amendment) Bill, 1982***

The Constitution (Forty-seventh Amendment) Bill, 1982 was introduced in the Lok Sabha on 5 November 1982<sup>47</sup>. The Bill sought to amend articles 330 and 332 of the Constitution. But the motion for consideration of the Bill was lost on 22 August 1984 as it was not carried in the Lok Sabha in accordance with rule 157 of the Rules of Procedure and the provisions of the Constitution<sup>48</sup>. The amendment to the Constitution proposed in the Bill, were later incorporated in the Constitution (Fifty-third Amendment) Bill, 1984 which was enacted as the Constitution (Fifty-first Amendment) Act, 1984.

***The Constitution (Sixty-third Amendment) Bill, 1989***

The Constitution (Sixty-third Amendment) Bill, 1989 was introduced in the Lok Sabha on 2 May 1989<sup>49</sup>. The Bill sought to insert a new clause (3B) in article 332 of the Constitution. The Bill was considered by the Lok Sabha on 10 August 1989 and, as amended, passed on 10 August 1989<sup>50</sup>. The Bill could not be taken up for consideration by the Rajya Sabha and lapsed on the dissolution of the Eighth Lok Sabha.

***The Constitution (Sixty-fourth Amendment) Bill, 1989***

The Constitution (Sixty-fourth Amendment) Bill, 1989 was introduced in the Lok Sabha on 15 May 1989<sup>51</sup>. The Bill sought to insert a new Part IX in the Constitution relating to the Panchayats. The Bill was considered by the Lok Sabha on 8, 9<sup>52</sup> and 10 August 1989 and, as amended, passed on 10 August 1989<sup>53</sup>. However, in the

<sup>47</sup> *Ibid.*, 5 November 1982, c. 349. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri P. Venkatasubbaiah.

<sup>48</sup> *Ibid.*, 22 August 1984, cc. 372-412.

<sup>49</sup> *Ibid.*, 2 May 1989, c. 402. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri Santosh Mohan Dev.

<sup>50</sup> *Ibid.*, 10 August 1989, cc. 627-672.

<sup>51</sup> *Ibid.*, 15 May 1989, c. 125. The Bill was introduced by the Prime Minister, Shri Rajiv Gandhi.

<sup>52</sup> *Ibid.*, 8-9 August 1989, cc. 307-317, 324-402 and 317-422.

<sup>53</sup> *Ibid.*, 10 August 1989, cc. 414-564.

Rajya Sabha, the motion for consideration of the Bill, as passed by the Lok Sabha, was lost on 13 October 1989<sup>54</sup> as it failed to secure the requisite majority prescribed under article 368 of the Constitution.

### ***The Constitution (Sixty-fifth Amendment) Bill, 1989***

The Constitution (Sixty-fifth Amendment) Bill, 1989 was introduced in the Lok Sabha on 7 August 1989<sup>55</sup>. The Bill sought to insert new Chapters II to V in Part IX of the Constitution relating to Nagar Panchayats and Municipalities and to add Twelfth Schedule to the Constitution. The Bill was considered by the Lok Sabha on 8, 9 and 10 August 1989 and, as amended, passed on 10 August 1989<sup>56</sup>. However, in the Rajya Sabha, the motion for consideration of the Bill, as passed by the Lok Sabha, was lost on 13 October 1989<sup>57</sup> as it failed to secure the requisite majority prescribed under article 368 of the Constitution.

### ***The Constitution (Sixty-fourth Amendment) Bill, 1990***

The Constitution (Sixty-fourth Amendment) Bill, 1990 was introduced in the Rajya Sabha on 27 March 1990<sup>58</sup>. The Bill sought to amend article 356 of the Constitution. The Bill was considered by the Rajya Sabha on 27 and 28 March 1990 and, as amended, passed on 28 March 1990<sup>59</sup>. However, in the Lok Sabha, the motion for consideration of the Bill, as passed by the Rajya Sabha, was not carried on 30 March 1990<sup>60</sup> in accordance with rule 157 of the Rules of Procedure and the provisions of article 368 of the Constitution.

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<sup>54</sup> *R.S. Deb.*, 13 October 1989, c. 300.

<sup>55</sup> *L.S. Deb.*, 7 August 1989, c. 359. The Bill was introduced by the Prime Minister, Shri Rajiv Gandhi.

<sup>56</sup> *Ibid.*, 10 August 1989, c. 627.

<sup>57</sup> *R.S. Deb.*, 13 October 1989, cc. 179-308.

<sup>58</sup> *Ibid.*, 27 March 1990, c. 242. The Bill was introduced by the Minister of Home Affairs, Shri Mufti Mohammad Sayeed.

<sup>59</sup> *Ibid.*, 28 March 1990, c. 336.

<sup>60</sup> *L.S. Deb.*, 30 March 1990, c. 555.

*The Constitution (Sixty-seventh Amendment) Bill, 1990*

The Constitution (Sixty-seventh Amendment) Bill, 1990 was introduced in the Lok Sabha on 18 May 1990<sup>61</sup>. The Bill sought to set up a National Judicial Commission for the appointment of Judges of the Supreme Court and the High Courts and to amend articles 124, 217 and 224 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Ninth Lok Sabha.

*The Constitution (Sixty-ninth Amendment) Bill, 1990*

The Constitution (Sixty-ninth Amendment) Bill, 1990 was introduced in the Lok Sabha on 28 May 1990<sup>62</sup>. The Bill sought to amend article 332 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Ninth Lok Sabha.

*The Constitution (Seventieth Amendment) Bill, 1990*

The Constitution (Seventieth Amendment) Bill, 1990 was introduced in the Rajya Sabha on 30 May 1990<sup>63</sup>. The Bill sought to amend article 324 of the Constitution. On 13 June 1994, the Minister of State in the Ministry of Law, Justice and Company Affairs, Shri H.R. Bhardwaj stated in the Rajya Sabha that the Government did not propose to proceed with the aforesaid Bill<sup>64</sup>. A motion to withdraw the Bill was moved in the House on 13 June 1994 and the Bill was withdrawn by the leave of the Rajya Sabha on the same day<sup>65</sup>.

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<sup>61</sup> *Ibid.*, 18 May 1990, c. 430. The Bill was introduced by the Minister of Steel and Mines and Minister of Law and Justice, Shri Dinesh Goswami.

<sup>62</sup> *Ibid.*, 28 May 1990, c. 46. The Bill was introduced by the Minister of Home Affairs, Shri Mufti Mohammed Sayeed.

<sup>63</sup> *R.S. Deb.*, 30 May 1990, c. 203. The Bill was introduced by the Minister of Steel and Mines with additional charge of Ministry of Law and Justice, Shri Dinesh Goswami.

<sup>64</sup> *Ibid.*, 13 June 1994, p. 600.

<sup>65</sup> *Ibid.*, p. 637.

***The Constitution (Seventy-first Amendment) Bill, 1990***

The Constitution (Seventy-first Amendment) Bill, 1990 was introduced in the Rajya Sabha on 30 May 1990<sup>66</sup>. The Bill sought to amend articles 81, 82, 170 and 327 of the Constitution. A motion to consider the Bill was moved in the Rajya Sabha on 29 April 1992 and the Bill was passed on the same day<sup>67</sup>. The Bill as passed by the Rajya Sabha, was laid on the table of the Lok Sabha on 4 May 1992. Later, on a motion moved in the Lok Sabha on 7 May 1992, the Bill was referred to the Select Committee<sup>68</sup>.

The Report of the Select Committee was presented to the Lok Sabha on 18 December 1992<sup>69</sup>. The Committee suggested certain amendments in the Bill. The Bill, as reported by the Select Committee was, by leave of the House, withdrawn on 14 June 1994<sup>70</sup> after being concurred in by the Rajya Sabha on 13 June 1994<sup>71</sup>.

***The Constitution (Seventy-second Amendment) Bill, 1990***

The Constitution (Seventy-second Amendment) Bill, 1990 was introduced in the Lok Sabha on 31 May 1990<sup>72</sup>. The Bill sought to: (i) amend the First and Fourth Schedules and (ii) insert a new article 371-J in the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Ninth Lok Sabha.

***The Constitution (Seventy-third Amendment) Bill, 1990***

The Constitution (Seventy-third Amendment) Bill, 1990 was introduced in the Lok Sabha on 16 August 1990<sup>73</sup>. The Bill sought to

<sup>66</sup> *Ibid.*, 30 May 1990, c. 203. The Bill was introduced by the Minister of Steel and Mines with additional charge of Ministry of Law and Justice, Shri Dinesh Goswami.

<sup>67</sup> *Ibid.*, 29 April 1992, c. 332.

<sup>68</sup> *L.S. Deb.*, 7 May 1992, c. 357.

<sup>69</sup> *Ibid.*, 18 December 1992, c. 618.

<sup>70</sup> *Ibid.*, 14 June 1994, p. 738.

<sup>71</sup> *R.S. Deb.*, 13 June 1994, p. 658.

<sup>72</sup> *L.S. Deb.*, 31 May 1990, c. 75. The Bill was introduced by the Minister of State in the Ministry of Home Affairs, Shri Subodh Kant Sahay.

<sup>73</sup> *Ibid.*, 16 August 1990, c. 1007. The Bill was introduced by the Minister of Textiles and Minister of Food Processing Industries, Shri Sharad Yadav.

amend the Ninth Schedule to the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Ninth Lok Sabha.

#### ***The Constitution (Seventy-fourth Amendment) Bill, 1990***

The Constitution (Seventy-fourth Amendment) Bill, 1990 was introduced in the Lok Sabha on 7 September 1990<sup>74</sup>. The Bill sought to insert a new Part IX relating to Panchayats in the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Ninth Lok Sabha.

#### ***The Constitution (Seventy-fifth Amendment) Bill, 1990***

The Constitution (Seventy-fifth Amendment) Bill, 1990 was introduced in the Lok Sabha on 1 October 1990<sup>75</sup>. The Bill sought to amend article 356 of the Constitution. The Bill was considered by the Lok Sabha on the same day. But the motion for consideration of the Bill was lost as it was not carried in the Lok Sabha<sup>76</sup> in accordance with rule 157 of the Rules of Procedure and the provisions of article 368 of the Constitution.

#### ***The Constitution (Eightieth Amendment) Bill, 1993***

The Constitution (Eightieth Amendment) Bill, 1993 was introduced in the Lok Sabha on 29 July 1993<sup>77</sup>. The Bill sought to: (i) insert new articles 24A, 28A, 102A and 191A and (ii) amend article 329 and the Ninth Schedule to the Constitution. On a motion moved in the Lok Sabha on 3 August 1993, adopted on the same day concurred in by the Rajya Sabha on 5 August 1993, the Bill was referred to a Joint Committee of the Houses of Parliament<sup>78</sup>.

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<sup>74</sup> *Ibid.*, 7 September 1990, c. 369. The Bill was introduced by the Minister of Steel and Mines and Minister of Law and Justice, Shri Dinesh Goswami.

<sup>75</sup> *Ibid.*, 1 October 1990, c. 24. The Bill was introduced by the Minister of Home Affairs, Shri Mufti Mohammed Sayeed.

<sup>76</sup> *Ibid.*, c. 120.

<sup>77</sup> *Ibid.*, 29 July 1993, c. 512. The Bill was introduced by the Minister of Home Affairs, Shri S.B. Chavan.

<sup>78</sup> *Ibid.*, 3 August 1993, c. 536; *R.S. Deb.*, 5 August 1993, cc. 289-290.

The Report of the Joint Committee was presented to the Lok Sabha on 20 August 1993<sup>79</sup> and laid on the table of the Rajya Sabha on the same day<sup>80</sup>. The Committee suggested certain amendments in clauses 2, 3, 4, 5 and 6 of the Bill. The motion to adjourn the debate on the Bill, as reported by the Joint Committee, was moved and adopted in the Lok Sabha on 24 August 1993<sup>81</sup>. The Bill lapsed on the dissolution of the Tenth Lok Sabha.

#### *The Constitution (Eighty-fourth Amendment) Bill, 1994*

The Constitution (Eighty-fourth Amendment) Bill, 1994, which was introduced in the Lok Sabha on 25 August 1994<sup>82</sup>, sought to amend articles 81, 82 and 170 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Tenth Lok Sabha.

#### *The Constitution (Eightieth Amendment) Bill, 1996*

The Constitution (Eightieth Amendment) Bill, 1996, which was introduced in the Lok Sabha on 25 July 1996<sup>83</sup>, sought to amend articles 81, 82 and 170 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Eleventh Lok Sabha.

#### *The Constitution (Eighty-first Amendment) Bill, 1996*

The Constitution (Eighty-first Amendment) Bill, 1996, which was introduced in the Lok Sabha on 12 September 1996<sup>84</sup>, sought to insert new articles 330 A and 332A in the Constitution. During the discussion on the motion for consideration of the Bill on 13 September 1996<sup>85</sup>,

<sup>79</sup> *Ibid.*, 20 August 1993, c. 296.

<sup>80</sup> *R.S. Deb.*, 20 August 1993, c. 388.

<sup>81</sup> *L.S. Deb.*, 24 August 1993, cc. 358-392.

<sup>82</sup> *Ibid.*, 25 August 1994, c. 394. The Bill was introduced by the Minister of State in the Ministry of Law, Justice and Company Affairs, Shri H.R. Bhardwaj.

<sup>83</sup> *Ibid.*, 25 July 1996, c. 336. The Bill was introduced by the Minister of State in the Ministry of Law, Justice and Company Affairs, Shri Ramakant D. Khalap.

<sup>84</sup> *Ibid.*, 12 September 1996, cc. 403-408. The Bill was introduced by the Minister of State in the Ministry of Law, Justice and Company Affairs, Shri Ramakant D. Khalap.

<sup>85</sup> *Ibid.*, 13 September 1996, cc. 266-292, 330-342.

the House authorized the Speaker to refer the Bill to a Joint Committee of the Houses in consultation with the Chairman, Rajya Sabha. Accordingly, a Joint Committee was constituted for the said purpose. The Report of the Joint Committee was presented to the Lok Sabha on 9 December 1996<sup>86</sup> and laid on the table of the Rajya Sabha on the same day<sup>87</sup>. The Joint Committee suggested changes in the existing clauses 2, 3 and 4 of the Bill and insertion of certain new clauses in the Bill. The motion for consideration of the Bill, as reported by the Joint Committee, was moved in the Lok Sabha on 16 May 1997<sup>88</sup>. However, the Bill lapsed on the dissolution of the Eleventh Lok Sabha.

### *The Constitution (Eighty-third Amendment) Bill, 1997*

The Constitution (Eighty-third Amendment) Bill, 1997 was introduced in the Rajya Sabha on 28 July 1997<sup>89</sup>. The Bill sought to: (i) insert new article 21A; (ii) amend articles 35 and 51A and (iii) omit article 45 of the Constitution. The Bill was referred to the Standing Committee on Human Resource Development. The Report of the Committee was presented in the Rajya Sabha on 24 November 1997 and laid on the table of the Lok Sabha on the same day<sup>90</sup>. The Committee suggested certain amendments in the existing clauses 2, 3, 4 and 5 of the Bill. In the meantime, the aspect of making elementary education a Fundamental Right was also dealt with in the 165th Report of the Law Commission. Taking into consideration the recommendations of the Standing Committee and the Law Commission, the Government proposed to introduce a fresh Bill. Accordingly, on a motion moved on 27 November 2001, the Bill was withdrawn by the leave of the Rajya Sabha<sup>91</sup>. A new Bill titled as the Constitution (Ninety-third Amendment) Bill, 2001 was introduced in the Lok Sabha on 26 November 2001 which was eventually enacted as the Constitution (Eighty-sixth Amendment) Act, 2002<sup>92</sup>.

<sup>86</sup> *Ibid.*, 9 December 1996, cc. 271-273.

<sup>87</sup> *R.S. Deb.*, 9 December 1996, cc. 234-235.

<sup>88</sup> *L.S. Deb.*, 16 May 1997, cc. 459-476.

<sup>89</sup> *R.S. Deb.*, 28 July 1997, c. 416. The Bill was introduced by the Minister of Human Resource Development, Shri Somappa R. Bommai.

<sup>90</sup> *Ibid.*, 24 November 1997, c. 258; *L.S. Deb.*, 24 November 1997, c. 306.

<sup>91</sup> *R.S. Deb.*, 27 November 2001, pp. 221-226.

<sup>92</sup> For the Text see the Constitution (Eighty-sixth Amendment) Act, 2002 in Annexure (A).

***The Constitution (Eighty-fourth Amendment) Bill, 1998***

The Constitution (Eighty-fourth Amendment) Bill, 1998 was introduced in the Lok Sabha on 14 December 1998<sup>93</sup>. The Bill sought to: (i) amend articles 239AA, 331 and 333 and (ii) insert new articles 330A, 332A and 334A in the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Twelfth Lok Sabha.

***The Constitution (Eighty-fifth Amendment) Bill, 1998***

The Constitution (Eighty-fifth Amendment) Bill, 1998 was introduced in the Lok Sabha on 14 July 1998<sup>94</sup>. The Bill sought to: (i) amend article 269; (ii) substitute new articles for articles 270 and 271 and (iii) omit article 272 of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Twelfth Lok Sabha.

***The Constitution (Eighty-fifth Amendment) Bill, 1999***

The Constitution (Eighty-fifth Amendment) Bill, 1999 was introduced in the Lok Sabha on 23 December 1999<sup>95</sup>. The Bill sought to: (i) amend articles 239 AA, 331 and 333 and (ii) insert new articles 330A, 332A and 334A in the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Thirteenth Lok Sabha.

***The Constitution (Eighty-seventh Amendment) Bill, 1999***

The Constitution (Eighty-seventh Amendment) Bill, 1999, which was introduced in the Rajya Sabha on 17 December 1999<sup>96</sup>, sought to amend article 243C of the Constitution. The Bill was considered by the

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<sup>93</sup> L.S. Deb., 14 December 1998, cc. 463-464. The Bill was introduced by the Minister of Law, Justice and Company Affairs, Shri M. Thambi Durai.

<sup>94</sup> Ibid., 14 July 1998, cc. 264-265. The Bill was introduced by the Minister of Finance, Shri Yashwant Sinha.

<sup>95</sup> Ibid., 23 December 1999, cc. 230-231. The Bill was introduced by the Minister of Law, Justice and Company Affairs, Shri Ram Jethmalani.

<sup>96</sup> R.S. Deb., 17 December 1999, pp. 239-240. The Bill was introduced by the Minister of Rural Development, Shri Sunder Lal Patwa.

Rajya Sabha on 21 December 1999<sup>97</sup>. On 24 August 2006, the Minister of Panchayati Raj, and the Minister of Youth Affairs and Sports, Shri Mani Shankar Aiyar stated in the Rajya Sabha that the Government did not propose to proceed with the above said Bill<sup>98</sup>. A motion to withdraw the Bill was moved in the House on 24 August 2006 and the Bill was withdrawn by the leave of the Rajya Sabha on the same day<sup>99</sup>.

***The Constitution (Ninety-eighth Amendment) Bill, 2003***

The Constitution (Ninety-eighth Amendment) Bill, 2003 was introduced in the Lok Sabha on 9 May 2003<sup>100</sup>. The Bill sought to: (i) amend articles 124, 217, 222 and 231 and (ii) insert a new “Chapter IVA—National Judicial Commission” after Chapter IV in the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Thirteenth Lok Sabha.

***The Constitution (One hundred-first Amendment) Bill, 2003***

The Constitution (One hundred-first Amendment) Bill, 2003, which was introduced in the Lok Sabha on 18 August 2003<sup>101</sup>, sought to amend the Ninth Schedule to the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Thirteenth Lok Sabha.

***The Constitution (One hundred-second Amendment) Bill, 2003***

The Constitution (One hundred-second Amendment) Bill, 2003 was introduced in the Lok Sabha on 18 August 2003<sup>102</sup>. The Bill sought to: (i) amend article 54; (ii) insert a new article 371-J and (iii) omit articles 239AA and 239AB of the Constitution. The Bill could not be taken up for consideration by the House and lapsed on the dissolution of the Thirteenth Lok Sabha.

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<sup>97</sup> *Ibid.*, 21 December 1999, pp. 223-225.

<sup>98</sup> *Ibid.*, 24 August 2006.

<sup>99</sup> *Ibid.*

<sup>100</sup> *L.S. Deb.*, 9 May 2003, c. 351. The Bill was introduced by the Minister of Law and Justice, Shri Arun Jaitley.

<sup>101</sup> *Ibid.*, 18 August 2003, c. 280. The Bill was introduced by the Minister of Consumer Affairs, Food and Public Distribution, Shri Sharad Yadav.

<sup>102</sup> *Ibid.*, c. 282. The Bill was introduced by the Deputy Prime Minister, Shri L.K. Advani.

## **ANNEXURE (A)**

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### **TEXTS OF THE CONSTITUTION AMENDMENT ACTS (First to Ninety-fourth)**

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# I

## THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951

*An Act further to amend the Constitution of India*

[18th June, 1951]

BE it enacted by Parliament as follows:—

1. This Act may be called the Constitution (First Short title. Amendment) Act, 1951.
2. To article 15 of the Constitution, the following clause shall be added:—

“(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes”.
3. (1) in Article 19 of the Constitution—
  - (a) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form, namely:

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

Amend-  
ment of  
article 19  
and  
validation  
of certain  
laws.

(b) in clause (6), for the beginning with the words “nothing in the said sub-clause” and ending with the words “occupation, trade or business”, the following shall be substituted, namely:—

“nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law, relating to—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise”.

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void, or ever to have become void on the ground only that, being a law which takes away or abridges the right conferred by sub-clause (a) of clause (1) of the said article, its operation was not saved by clause (2) of that article as originally enacted.

*Explanation*—In this sub-section, expression “law in force” has the same meaning as in clause (1) of article 13 of the Constitution.

4. After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely:—

Insertion  
of new  
article  
31A.

*“31A. Saving of laws providing for acquisition of estates, etc.—*

(1) Notwithstanding anything in the foregoing provisions of the part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part:

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

(2) In this article—

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

Insertion  
of new  
article  
31B.

5. After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely:—

*“31B. Validation of certain Acts and Regulations*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part, and notwithstanding any judgement, 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.”

Amend-  
ment of  
article 85.

6. For article 85 of the Constitution, the following article shall be substituted namely:—

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

(2) the President may from time to time—

- (a) prorogue the House or either House;
- (b) dissolve the House of the People”.

7. The article 87 of the Constitution—  
(1) in clause (1), for the words “every session” the words “the first session after each general election to the House of the People and at the commencement of the first session of each year” shall be substituted; Amend-  
ment of  
article 87.
- (2) in clause (2), the words “and for the precedence of such discussion over other business of the House” shall be omitted.
8. For article 174 of the Constitution, the following article shall be substituted, namely:—  
“174. *Session 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.” Amend-  
ment of  
article  
174.
9. In article 176 of the Constitution—  
(1) in clause (1), for the words “every session” the words “the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year” shall be substituted; Amend-  
ment of  
Article  
176.

(2) in clause (2), the words “and for the precedence of such discussion over other business of the House” shall be omitted.

Amend-  
ment of  
Article  
341.

10. In clause (1) of article 341 of the Constitution, for the words “may, after consultation with the Governor or Rajpramukh of a State”, the words “may with respect to any State, and where it is a State-specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof;” shall be substituted.

Amend-  
ment of  
Article  
342.

11. In clause (1) of article 342 of the Constitution, for the words “may, after consultation with the Governor or Rajpramukh of a State,” the words “may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof;” shall be substituted.

Amend-  
ment of  
Article  
372.

12. In sub-clause (a) of clause (3) of article 372 of the Constitution, for the words “two years”, the words “three years” shall be substituted.

Amend-  
ment of  
Article  
376.

13. At the end of clause (1) of article 376 of the Constitution, the following shall be added, namely:—

“Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.”

14. After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely:—

Addition  
of Ninth  
Schedule.

NINTH SCHEDULE  
[Article 31B]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act 1 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 1 of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act 1 of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F. (No LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F. (No XXV of 1359, Fasli).

**II**

**THE CONSTITUTION (SECOND AMENDMENT)  
ACT, 1952**

*An Act further to amend the Constitution of India*

*[1st May, 1953]*

BE it enacted by Parliament as follows:—

- |                          |  |
|--------------------------|--|
| Short title.             | 1. This Act may be called the Constitution (Second Amendment) Act, 1952.   |
| Amendment of Article 81. | 2. In sub-clause (b) of clause (1) of article 81 of the Constitution; the words and figures “not less than one member for every 750,000 of the population and” shall be omitted. |

**III**

**THE CONSTITUTION (THIRD AMENDMENT)  
ACT, 1954**

*An Act further to amend the Constitution of India*

*[22nd February, 1955]*

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

- |                                    |  |
|------------------------------------|--|
| Short title.                       | 1. This Act may be called the Constitution (Third Amendment) Act, 1954.  |
| Amendment of the Seventh Schedule. | 2. In the Seventh Schedule to the Constitution, for entry 33 of List III, the following entry shall be substituted, namely:—<br>“33. Trade and commerce in, and the production, supply and distribution of—<br>(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be |

- expedient in the public interest, and imported goods of the same kind as such products;
- (b) foodstuffs, including edible oilseeds and oils;
  - (c) cattle fodder, including oilcakes and other concentrates;
  - (d) raw cotton, whether ginned or unginned, and cotton seed; and
  - (e) raw jute.”

#### IV

### **THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955**

*An Act further to amend the Constitution of India*

*[27th April, 1955]*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fourth Amendment) Act, 1955.
2. In article 31 of the Constitution, for clause (2), the following clauses shall be substituted, namely:—
  - (2) “No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which and the manner in which, the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the

Amend-  
ment of  
Article 31.

compensation provided by that law is not adequate.

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

Amend-  
ment of  
Article  
31A.

3. In article 31A of the Constitution—

(a) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

“(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

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

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

(b) in clause (2)—

(i) in sub-clause (a) after the word “grant”, the words “and in the States of Madras and Travancore-Cochin, any *janmam right*” shall be, and shall be deemed always to have been, inserted; and

(ii) in sub-clause (b), after the word “tenure holder”, the words “*raiyat, under-raiyat*” shall be, and shall be deemed always to have been, inserted.

4. For article 305 of the Constitution, the following article shall be substituted, namely:—

*“305. Saving of existing laws and laws providing for State monopolies—Nothing in*

Substitution of new article for article 305.

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”.

Amend-  
ment of  
the Ninth  
Schedule.

5. In the Ninth Schedule to the Constitution, after entry 13, the following entries shall be added, namely:—
  - “14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).
  15. 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).
  19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951.”

V

**THE CONSTITUTION (FIFTH AMENDMENT)  
ACT, 1955**

*An Act further to amend the Constitution of India*

*[24th December, 1955]*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fifth Amendment) Act, 1955.
2. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely:—

“Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.”

Amend-  
ment of  
article 3.

**VI****THE CONSTITUTION (SIXTH AMENDMENT)  
ACT, 1956***An Act further to amend the Constitution of India**[11th September, 1956]*

BE it enacted by Parliament in the Seventh Year  
of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Sixth Amendment) Act, 1956.

Amend-  
ment of  
Seventh  
Schedule.

2. In the Seventh Schedule of the Constitution—  
  - (a) in the Union List, after entry 92, the following entry shall be inserted, namely:—

“92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce”; and

- (b) in the State List, for entry 54, the following entry shall be substituted, namely:—

“54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List 1.”

Amend-  
ment of  
Article  
269.

3. In article 269 of the Constitution—

- (a) in clause (1) after sub-clause (f), the following sub-clause shall be inserted, namely:—

“(g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce”; and

(b) after clause (2), the following clause shall be inserted, namely:—

“(3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.”

4. In article 286 of the Constitution,—

(a) in clause (1), the Explanation shall be omitted; and

Amend-  
ment of  
article  
286.

(b) for clauses (2) and (3), the following clauses shall be substituted, namely:—

“(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.”

## VII

### THE CONSTITUTION (SEVENTH AMENDMENT) ACT, 1956

*An Act further to amend the Constitution of India*

*[19th October, 1956]*

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

- |   |                               |
|---|-------------------------------|
| 1. (1) This Act may be called the Constitution (Seventh Amendment) Act, 1956. | Short title and commencement. |
|---|-------------------------------|

Amend-  
ment of  
article 1  
and First  
Schedule.

(2) It shall come into force on the 1st day of November, 1956.

2. (1) In article 1 of the Constitution—

(a) for clause (2), the following clause shall be substituted, namely:—

“(2) The States and the territories thereof shall be as specified in the First Schedule.”; and

(b) in clause (3) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) the Union territories specified in the First Schedule; and”.

(2) For the First Schedule to the Constitution as amended by the States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956, the following Schedule shall be substituted, namely:—

**FIRST SCHEDULE**  
(Articles 1 and 4)

Sl.No.	Name	Territories
1	2	3

**I. THE STATES**

- |                   |  |
|-------------------|--|
| 1. Andhra Pradesh | The territories specified in sub-section (i) of section 3 of the Andhra State Act, 1953 and the territories specified in sub-section 3 of the States Reorganisation Act, 1956. |
| 2. Assam          | The territories which immediately before the   |

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

---

1

2

---

3

section 9 of the States Reorganisation Act, 1956.

7. Madras

The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed Part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956.

8. Mysore

The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956.

9. Orissa

The territories which immediately before the

---

---

1

2

---

3

commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.

- |                   |  |
|-------------------|--|
| 10. Punjab        | The territories specified in section 11 of the States Reorganisation Act, 1956.  |
| 11. Rajasthan     | The territories specified in section 10 of the States Reorganisation Act, 1956.  |
| 12. Uttar Pradesh | The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province.   |
| 13. West Bengal   | The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that province and the territory |
-

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

## II. THE UNION TERRITORIES

1. Delhi	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's province of Delhi.
2. Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissio-

---

1

2

---

3

ner's Provinces under the names of Himachal Pradesh and Bilaspur.

- |  |  |
|--|--|
| 3. Manipur                                     | The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur. |
| 4. Tripura                                     | The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura. |
| 5. The Andaman and Nicobar Islands             | The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.          |
| 6. The Laccadive, Minicoy and Amindivi Islands | The territory specified in section 6 of the States Reorganisation Act, 1956."  |
-

Amend-  
ment of  
article 80  
and Fourth  
Schedule.

3. In article 80 of the Constitution—
  - (a) in sub-clause (b) of clause (1), after word “States”, the words “and of the Union territories” shall be added;
  - (b) in clause (2), after the words “of the States” the words “and of the Union territories” shall be inserted;
  - (c) in clause (4), the words and letters “specified in Part A or Part B of the First Schedule” shall be omitted; and
  - (d) in clause (5), for the words and letter “States specified in Part C of the First Schedule”, the words “Union territories” shall be substituted.
- (2) For the Fourth Schedule to the Constitution as amended by the States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956, the following Schedule shall be substituted, namely:—

**FOURTH SCHEDULE**  
**[Articles 4 (1) and 80 (2)]**

**ALLOCATION OF SEATS IN THE  
 COUNCIL OF STATES**

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be.

TABLE

1.	Andhra Pradesh	18
2.	Assam	7
3.	Bihar	22
4.	Bombay	27
5.	Kerala	9
6.	Madhya Pradesh	16
7.	Madras	17
8.	Mysore	12
9.	Orissa	10
10.	Punjab	11
11.	Rajasthan	10
12.	Uttar Pradesh	34
13.	West Bengal	16
14.	Jammu & Kashmir	4
15.	Delhi	3
16.	Himachal Pradesh	2
17.	Manipur	1
18.	Tripura	1
Total		220

4. For articles 81 and 82 of the Constitution, the following articles be substituted, namely:—
- “81. *Composition of the House of the People*—

- (1) Subject to the provisions of article 331, the House of the People shall consist of—
- (a) not more than five hundred members chosen by direct election from territorial constituencies in the States; and

Substitution of new article for articles 81 and 82.

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

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

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

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

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

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 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.”

5. In article 131 of the Constitution for the proviso, the following proviso shall be substituted, namely:—

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

Amend-  
ment of  
article  
131.

6. To article 153 of the Constitution, the following proviso shall be added, namely:—

Amend-  
ment of  
article  
153.

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

7. In article 158 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

Amend-  
ment of  
article  
158.

“(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.”

8. (1) In clause (1) of article 168 of the Constitution in sub-clause (a), after the word “Madras”, the word “Mysore” shall be inserted.

Amend-  
ment of  
article  
168.

(2) In the said sub-clause, as from such date as the President may, by public notification, appoint after the word “Bombay”, the words “Madhya Pradesh” shall be inserted.

Substitution of new article for article 170.

9. For article 170 of the Constitution, the following article shall be substituted, namely:—

*“170. Composition of the Legislative Assemblies—*

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

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

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

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State 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.”

Amendment of article 171.

10. In clause (1) of article 171 of the Constitution, for the word “one-fourth”, the word “one-third” shall be substituted.

11. In article 216 of the Constitution, the proviso shall be omitted.

Amend-  
ment of  
article  
216.

12. In article 217 of the Constitution, in clause (1), for the words “shall hold office until he attains the age of sixty years”, the following words and figures shall be substituted, namely:—

Amend-  
ment of  
article  
217.

“shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years”.

13. For article 220 of the Constitution, the following article shall be substituted, namely:—

Substitu-  
tion of  
new  
article for  
article  
220.

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

*Explanation*—In this article, the expression “High Court” does not include a High Court for a State specified in Part B of the First Schedule as it existed before the commencement of the Constitution (Seventh Amendment) Act, 1956”.

14. In article 222 of the Constitution—

Amend-  
ment of  
article  
222.

(a) in clause (1), the words “within the territory of India” shall be omitted; and

(b) clause (2) shall be omitted.

Substitution of new article for article 224.

15. For article 224 of the Constitution, the following article shall be substituted, namely:—

*“224. Appointment of additional and acting Judges—*

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

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty years.”.

Substitution of new articles for articles 230, 231 and 232.

16. For articles 230, 231 and 232 of the Constitution, the following articles shall be substituted, namely:—

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

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory—

- (a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and
- (b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

*231. Establishment of a common High Court for two or more States*—(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court—

- (a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction;
- (b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the subordinate courts are situated; 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."

Amend-  
ment of  
Part VIII.

17. In Part VIII of the Constitution:—

- (a) for the heading "THE STATES IN PART C OF THE FIRST SCHEDULE", the heading "THE UNION TERRITORIES" shall be substituted; and
- (b) for articles 239 and 240, the following articles shall be substituted, namely:—

*"239. Administration of Union territories—*

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

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers.

*240. Power of President to make regulations for certain Union territories.—(1)* The President may make

regulations for the peace, progress and good government of the Union territory of—

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

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

18. After article 258 of the Constitution, the following article shall be inserted, namely:—

*“258A. Power of State 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 or the State extends”.

Insertion  
of new  
article  
258A.

19. After article 290 of the Constitution, the following article shall be inserted, namely:—

*“290A. Annual payment to certain Devaswom Funds*—A sum of forty-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

Insertion  
of article  
290A.

and fifty thousand rupees shall be charged on and paid out of, the Consolidated Fund of the State of Madras every year to the *Devaswom* Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the 1st day of November, 1956, from the State of Travancore-Cochin.”

Substitution 20. For article 298 of the Constitution, the following article shall be substituted, namely:—

“298. *Power to carry on trade, etc.*—The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Provided that—

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and

(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament”.

Insertion  
of new  
articles  
350A and  
350B.

21. After Article 350 of the Constitution, the following articles shall be inserted, namely:—

“350A. *Facilities for instruction in mother tongue at primary stage*—It shall be the endeavour of State and of every local authority within the State to provide adequate

facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

350B. *Special Officer for linguistic minorities*—(1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.”.

22. For article 371 of the Constitution, the following article shall be substituted, namely:—

“371. *Special provision with respect to the States of Andhra Pradesh, Punjab and Bombay*—(1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Andhra Pradesh or Punjab, provide for the constitution and functions of regional committees of the Legislative Assembly of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in

Substitution of new article for article 371.

order to secure the proper functioning for the regional committees.

(2) Notwithstanding anything in this Constitution, the President may by order made with respect to the State of Bombay, provide for any special responsibility of the Governor for—

(a) the establishment of separate development boards for Vidarbha, Marathwada, the rest of Maharashtra, Saurashtra, Kutch and the rest of Gujarat with the provision that a report on the working of each of these boards will be placed each year before the State Legislative Assembly;

(b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole; and

(c) an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment in services under the control of the State Government, in respect of all the said areas, subject to the requirements of the State as a whole.”

Insertion  
of new  
article  
372A.

23. After article 372 of the Constitution, the following article shall be inserted, namely:—

“372A. *Power of the President to adopt laws*—

(1) For the purposes of bringing the provisions of any law in force in India or in any part thereof, immediately before the

commencement of the Constitution (Seventh Amendment) Act 1956, into accord with the provisions of this Constitution as amended by that Act, the President, may by order made before the 1st day of November, 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in clause (1) shall be deemed to prevent a competent legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.”

24. After article 378 of the Constitution, the following article shall be inserted, namely:—

*“378A. Special provision as to duration of Andhra Pradesh Legislative Assembly—Notwithstanding anything contained in article 172, the Legislative Assembly of the State of Andhra Pradesh as constituted under the provisions of sections 28 and 29 of the States Reorganisation Act, 1956, shall, unless sooner dissolved, continue for a period of five years from the date referred to in the said section 29 and no longer and the expiration of the said period shall operate as a dissolution of that Legislative Assembly.”*

Insertion  
of new  
article  
378A.

25. In the Second Schedule to Constitution—
- (a) in the heading of Part D, the words and letter “in States in Part A of the First Schedule” shall be omitted;

Amend-  
ment of  
Second  
Schedule.

(b) in sub-paragraph (1) of paragraph 9, for the words “shall be reduced by the amount of that pension”, the following shall be substituted, namely:—

“shall be reduced—

(a) by the amount of that pension, and

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the committed 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”;

(c) in paragraph 10—

(i) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:—

“(1) There shall be paid to the Judges of High Courts, in respect of time spent on actual service, salary at the following rates *per mensem*, that is to say—

The Chief Justice..... 4,000 rupees

Any other Judge..... 3,500 rupees:

Provided that if a Judge of a High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced—

- (a) by the amount of that pension, and
  - (b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and
  - (c) if he has, before, such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity”; and
- (ii) for sub-paragraphs (3) and (4), the following sub-paragraph shall be substituted, namely:—
- “(3) Any person who, immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, was holding office as the Chief Justice of the High Court of a State specified in Part B of the First Schedule and has on such commencement become the Chief Justice of the High Court of a State specified in the said Schedule as amended by the said Act, shall, if he was immediately before such commencement drawing any amount as allowance in addition to his salary, be entitled to receive in respect of time spent on actual service as such Chief Justice, the same amount as allowance in addition to the salary specified in sub-paragraph (1) of this paragraph.”

26. In the Seventh Schedule to the Constitution entry 33 of the Union List and entry 36 of the State List shall be omitted and for entry 42 of the Concurrent List, the following entry shall be substituted, namely:—
- “42. Acquisition and requisitioning of property.”
- Modification of entries in the lists relating to acquisition and requisitioning of property.

Amendment of certain provisions relating to ancient and historical monuments etc.

Amendment of entry 24 of State List.

Consequential and minor amendment and repeals and Savings.

27. In each of the following provisions of the Constitution, namely:—

- (i) entry 67 of the Union List,
- (ii) entry 12 of the State List,
- (iii) entry 40 of the Concurrent List, and
- (iv) article 49,

for the words “declared by Parliament by law”, the words “declared by or under law made by Parliament” shall be substituted.

28. In the Seventh Schedule to the Constitution, in entry 24 of the State List, for the word and figures “entry 52”, the words and figures “entries 7 and 52” shall be substituted.

29. (1) The consequential and minor amendments and repeals directed in the Schedule shall be made in the Constitution and in the Constitution (Removal of Difficulties) Order, No. VIII made under article 392 of the Constitution.

(2) Notwithstanding the repeal of article 243 of the Constitution by the said Schedule, all regulations made by the President under that article and in force immediately before the commencement of this Act shall continue in force until altered or repealed or amended by a competent Legislature or other competent authority.

THE SCHEDULE  
(See section 29)

CONSEQUENTIAL AND MINOR AMENDMENTS  
AND REPEALS IN THE CONSTITUTION

*Article 3*—In the proviso, omit “specified in Part A or Part B of the First Schedule”.

*Article 16* —In clause (3), for “under any State specified in the First Schedule or any local or other authority within its territory any requirement as to residence within that State” substitute —

“under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory”.

*Article 31A*—In sub-clause (a) of clause (2), for “Travancore-Cochin” substitute “Kerala”.

*Article 58A*—In the *Explanation*, omit “or Rajpramukh or Uparajpramukh”.

*Article 66*— In the *Explanation*, omit “or Rajpramukh or Uparajpramukh”.

*Article 72*— In clause (3), omit “or Rajpramukh”.

*Article 73*— In the proviso to clause (1), omit “specified in Part A or Part B of the First Schedule”.

*Article 101*— In clause (2), omit “specified in Part A or Part B of the First Schedule”, and for “such a State” substitute “a State”.

*Article 112*— In sub-clause (d) (iii) of clause (3), for “a Province corresponding to a State specified in Part A of the First Schedule”, substitute “a Governor’s Province of the Dominion of India”.

*Article 143* — In clause (2), omit “clause (i) of” and for “said clause” substitute “said proviso”.

*Article 151*— In clause (2), omit “or Rajpramukh”.

*Part VI*—In the heading, omit “IN PART A OF THE FIRST SCHEDULE”.

*Article 152*— For “means a State specified in Part A of the First Schedule” substitute “does not include the State of Jammu & Kashmir”.

*Article 214*— Omit “(l)” and clauses (2) and (3).

*Article 217*— In sub-clause (b) of clause (2), omit “in any State specified in the First Schedule”.

*Article 219*— Omit “in a State”.

*Article 229*— In the proviso to clause (1) and in the proviso to clause (2), omit “in which the High Court has its principal seat”.

Omit Part VII.

*Article 241*—(a) In clause (1), for “State specified in Part C of the First Schedule”, substitute “Union territory”, and for “such State”, substitute “such territory”.

(b) for clauses (3) and (4), substitute—

“(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from any Union territory or part thereof.”

Omit article 242.

Omit Part IX

*Article 244*— Omit “specified in Part A or Part B of the First Schedule”.

*Article 246*— In clauses (2) and (3), omit “specified in Part A or Part B of the First Schedule” and in clause (4), for “in Part A or Part B of the First Schedule” substitute “in a State”.

*Article 254*— In clause (2), omit “specified in Part A or Part B of the First Schedule”.

*Article 255*— Omit “specified in Part A or B of the First Schedule”.

Omit article 259.

*Article 264*— For article 264, substitute—

“264. *Interpretation*—In this Part, ‘Finance Commission’ means a Finance Commission constituted under article 280”.

*Article 267*— In clause (2), omit “or Rajparamukh”.

*Article 268*— In clause, (1), for “State specified in Part C of the First Schedule” substitute “Union territories”.

*Article 269*— In clause (2), for “States specified in Part C of the First Schedule” substitute “Union territories”.

*Article 270*— In clause (3), omit sub-clause (c) and re-letter sub-clause (d) as sub-clause (c).

Omit article 278.

*Article 280*— In clause (3), omit sub-clause (c) and re-letter sub-clause (d) as sub-clause (c).

*Article 283*— In clause (2), omit “or Rajpramukh”.

*Article 291*—Omit “(1)” and clause (2).

*Article 299*—In clause (1), omit “or the Rajpramukh”, and in clause (2), omit “nor the Rajpramukh”.

*Article 304*— In clause (a) after “other States”, insert “or the Union territories”.

Omit article 306.

*Article 308*—For “means a State specified in Part A or Part B of the First Schedule”, substitute “does not include the State of Jammu and Kashmir”.

*Article 309*—Omit “or Rajpramukh”.

*Article 310*— In clause (1), omit “or, as the case may be, the Rajpramukh”, and in clause (2) omit “or Rajpramukh” and “or the Rajpramukh”.

*Article 311*—In clause (2), omit “or Rajpramukh”.

*Article 315*—In clause (4), omit “or Rajpramukh”.

*Article 316*—In clauses (1) and (2), omit “or Rajpramukh”.

*Article 317*—In clause (2), omit “or Rajpramukh”.

*Article 318*—Omit “or Rajpramukh”.

*Article 320*— In clause (3), omit “or Rajpramukh and “or Rajpramukh, as the case may be”, and in clause (5), omit “or Rajpramukh”.

*Article 323*— In clause (2), omit “or Rajpramukh” and “or Rajpramukh, as the case may be”.

*Article 324*—In clause (6) omit “or Rajpramukh”.

*Article 330*— In clause (2), after “State” wherever it occurs, insert “or Union territory”.

*Article 332*— In clause (1), omit “specified in Part A or Part B of the First Schedule”.

*Article 333*— Omit “or Rajpramukh”.

*Article 337*— Omit “specified in Part A or Part B of the First Schedule”.

*Article 339*— In clause (1), omit “specified in Part A and Part B of the First Scheduled” and in clause (2), for “any such State” substitute “a State”.

*Article 341*— In clause (1), after “any State” insert “or Union territory”, omit “specified in Part A or Part B of the First Schedule”, omit “or Rajpramukh” and after “that State” insert “or Union territory, as the case may be”.

*Article 342*— In clause (1), after “any State” insert “or Union territory”. Omit “specified in Part A or Part B of the First Schedule”, omit “or Rajpramukh” and after “that State” insert “or Union territory, as the case may be”.

*Article 348*— Omit “or Rajpramukh”.

*Article 356*— In clause (1), omit “or Rajpramukh” and “or Rajpramukh, as the case may be”.

*Article 361*—In clauses (2), (3) and (4), omit “or Rajpramukh” and in clause (4), omit “or the Rajpramukh”.

*Article 362*— Omit “clause (1) of”.

*Article 366*— Omit clause (21), and for clause (30), substitute—

“(30) ‘Union territory’ means Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Scheduled”.

*Article 367*— In clause (2), omit “specified in Part A or Part B of the First Schedule” and “or Rajpramukh”.

*Article 368*— Omit “specified in Parts A and B of the First Schedule”.

Omit articles 378 to 391, *both inclusive*.

*Second Schedule*.— (a) In the heading of Part A and in paragraph 1, omit “specified in Part A of the First Schedule”.

(b) in paragraph 2, omit “so specified”;

(c) in paragraph 3, for “such States” substitute “the States”;

(d) Omit Part B;

(e) in the heading of Part C, omit “of a State in Part A of the First Schedule”, and for “any such State” substitute “a State”; and

(f) in paragraph 8, omit “of a State specified in Part A of the First Schedule”, and for “such State” substitute “a State”.

*Fifth Schedule*.—(a) In paragraph 1, omit “means a State specified in Part A or Part B of the First Schedule but”;

(b) in paragraph 3, omit “or Rajpramukh”;

(c) in paragraph 4, in sub-paragraph (2), omit “or Rajpramukh as the case may be” and in sub-paragraph (3), omit “or Rajpramukh”;

(d) in paragraph 5, in sub-paragaphs (1), and (2), omit “or Rajpramukh, as the case may be”,

in sub-paragraph (3), omit “or Rajpramukh” and in sub-paragraph (5), omit “or the Rajpramukh”.

*Sixth Schedule.*—In paragraph 18, in sub-paragraph (2), for ‘Part IX’ substitute “article 240”, and for “territory specified in Part D of the First Schedule” substitute “Union territory specified in that article”.

*Seventh Schedule.*—In List I—

(a) in entry 32, omit, “specified in Part A or Part B of the First Schedule”; and

(b) for entry 79, substitute—

“79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.”

**CONSEQUENTIAL AMENDMENTS IN THE  
CONSTITUTION (REMOVAL OF DIFFICULTIES)**  
**ORDER No. VIII**

In the Constitution (Removal of Difficulties) Order No. VIII, for sub-paragraphs (1), (2) and (3) of paragraph 2, substitute —

“(1) in article 81—

(a) in sub-clause (b) of clause (1), after the words “Union territories”, the words, letter and figures” and the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule” shall be inserted; and

(b) to clause (2), the following proviso shall be added, namely:—

“Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule.”

(2) In clause (2) of article 170, after the words “throughout the State” the following proviso shall be inserted, namely:—

“Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule.”

## VIII

### **THE CONSTITUTION (EIGHTH AMENDMENT) ACT, 1960**

*An Act further to amend the Constitution of India*

*[5th January, 1960]*

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighth Amendment) Act, 1960.

Amend-  
ment of  
article  
334.

2. In article 334 of the Constitution, for the words “ten years” the words “twenty years” shall be substituted.

## IX

### **THE CONSTITUTION (NINTH AMENDMENT) ACT, 1960**

*An Act further to amend the Constitution of India to give effect to the transfer of certain territories to Pakistan in pursuance of the agreements entered into between the Governments of India and Pakistan*

*[28th December, 1960]*

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Ninth Amendment) Act, 1960.

2. In this Act —

Defini-  
tions.

- (a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for the transfer of territories to Pakistan in pursuance of the Indo-Pakistan agreements, after causing the territories to be so transferred and referred to in the First Schedule demarcated for the purpose, and different dates may be appointed for the transfer of such territories from different States and from the Union territory of Tripura;
- (b) “Indo-Pakistan agreements” mean the Agreements dated the 10th day of September, 1958 the 23rd day of October, 1959 and the 11th day of January, 1960 entered into between the Governments of India and Pakistan, the relevant extracts of which are set out in the Second Schedule;
- (c) “transferred territory” means so much of the territories comprised in the Indo-Pakistan agreements and referred to in the First Schedule as are demarcated for the purpose of being transferred to Pakistan in pursuance of the said agreements.

3. As from the appointed day, in the First Schedule to the Constitution —

Amend-  
ment of  
the First  
Schedule  
to the  
Constitu-  
tion.

- (a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures “and the territories referred to in Part I of the First Schedule to the Constitution (Ninth Amendment) Act, 1960” shall be added at the end;

- (b) in the paragraph relating to the territories of the State of Punjab, the words, brackets and figures “but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960” shall be added at the end;
- (c) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures “but excluding the territories referred to in Part III of the First Schedule to the Constitution (Ninth Amendment) Act, 1960” shall be added at the end;
- (d) in the paragraph relating to the extent of the Union territory of Tripura, the words, brackets and figures “but excluding the territories referred to in Part IV of the First Schedule to the Constitution (Ninth Amendment) Act, 1960” shall be added at the end.

THE FIRST SCHEDULE  
[See sections 2 (a), 2 (c) and 3]

PART I

The transferred territory in relation to item (7) of paragraph 2 of the Agreement dated the 10th day of September, 1958, and item (i) of paragraph 6 of the Agreement dated the 23rd day of October, 1959.

PART II

The transferred territory in relation to items (i) and (iv) of paragraph 1 of the Agreement dated the 11th day of January, 1960.

### PART III

The transferred territory in relation to items (3), (5) and (10) of paragraph 2 of the Agreement dated the 10th day of September, 1958, and paragraph 4 of the Agreement dated the 23rd day of October, 1959.

### PART IV

The transferred territory in relation to item (8) of paragraph 2 of the Agreement dated the 10th day of September, 1958.

#### THE SECOND SCHEDULE [See section 2 (b)]

1. EXTRACTS FROM THE NOTE CONTAINING THE AGREEMENT DATED THE 10TH DAY OF SEPTEMBER, 1958.

\* \* \* \* \*

2. As a result of the discussions, the following agreements were arrived at:—

##### (3) Berubari Union No. 12

This will be so divided as to give half the area to Pakistan, the other half adjacent to India being retained by India. The division of Berubari Union No. 12 will be horizontal, starting from the north-east corner of Debiganj thana.

The division should be made in such a manner that the Cooch Behar enclaves between Pachagar thana of East Pakistan and Berubari Union No. 12 of Jalpaiguri thana of West Bengal will remain connected as at present with Indian territory and will remain with India. The Cooch Behar enclaves lower down between Boda thana of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan.

\* \* \* \* \*

(5) *24 Parganas-Khulna Boundary**24 Parganas-Jessor Disputes.*

It is agreed that the mean of the two respective claims of India and Pakistan should be adopted, taking the river as a guide, as far as possible, in the case of the latter dispute. (Ichhamati river).

\* \* \* \* \*

## (7) Piyain and Surma river regions to be demarcated in accordance with the relevant notifications, cadastral survey maps and, if necessary, record of rights. Whatever the result of this demarcation might be, the nationals of both the Governments to have the facility of navigation on both these rivers.

\* \* \* \* \*

## (8) Government of India agree to give in perpetual right to Pakistan the land belonging to Tripura State to the west of the railway line as well as the land appurtenant to the railway line at Bhagalpur.

\* \* \* \* \*

## (10) Exchange of old Cooch Behar enclaves in Pakistan and Pakistan enclaves in India without claim to compensation for extra area going to Pakistan, is agreed to.

\* \* \* \* \*

(Sd/-) M.S.A. BAIG,  
*Foreign Secretary,*  
*Ministry of Foreign Affairs*  
*& Commonwealth Relations,*  
*Government of Pakistan.*

NEW DELHI;  
September: 10, 1958.

(Sd/-) M.J. DESAI,  
*Commonwealth*  
*Secretary, Ministry*  
*of External Affairs,*  
*Government of India.*

2. EXTRACTS FROM AGREEMENT ENTITLED “AGREED DECISIONS AND PROCEDURES TO END DISPUTES AND INCIDENTS ALONG THE INDO-EAST PAKISTAN BORDER AREAS” DATED THE 23RD DAY OF OCTOBER, 1959.

\* \* \* \*

4. *West Bengal-East Pakistan Boundary*

Over 1,200 miles of this boundary have already been demarcated. As regards the boundary between West Bengal and East Pakistan in the areas of Mahananda, Burung and Karatoa rivers, it was agreed that demarcation will be made in accordance with the latest cadastral survey maps supported by relevant notifications and record of rights.

\* \* \* \*

6. *Assam-East Pakistan Boundary*

\* \* \* \*

- (i) The dispute concerning Bagge Award III has been settled by adopting the following rational boundary in the Patharia Forest Reserve region:

From a point marked X (H522558) along the Radcliffe Line BA on the old Patharia Reserve Boundary as shown in the topographical map sheet No. 83D/5, the boundary line shall run in close proximity and parallel to the cart road to its south to a point A (H531554); thence in a southerly direction up the spur and along the ridge to hill top marked B (H523539); thence in a south-easterly direction along

the ridge down the spur across a stream to a hill top marked C (H532523); thence in a southerly direction to a point D (H530517); thence in a south-westerly direction to a flat top E (H523507); thence in a southerly direction to a point F (H524500); thence in a south-easterly direction in a straight line to the midstream point of the Gandhai Nala marked G (H 540494); thence in a south-westerly direction up the midstream of Gandhai Nala to a point H (H 533482); thence in south-westerly direction up a spur and along the ridge to a point I (517460); thence in a southerly direction to a point on the ridge marked J (H 518455); thence in a south-westerly direction along the ridge to a point height 364 then continues along the same direction along the same ridge to a point marked K (H 500428); thence in a south and south-westerly direction along the same ridge to a point marked L (H 496420); thence in a south-easterly direction along the same ridge to a point marked M (H 499417); thence a south-westerly direction along the ridge to a point on the bridle path with a height 587; then up the spur to the hill top marked N (H 487393); then in a south-easterly and southerly direction along the ridge to the hill top with height 692; thence in a southerly direction down the spur to a point on Buracherra marked O (H 484344); thence in a south-westerly direction up the spur along the ridge to the trigonometrical survey station with

height 690; thence in a southerly direction along the ridge to a point height 490 (H 473292); thence in a straight line due south to a point on the eastern boundary of the Patharia Reserve Forest marked Y (H 473263); along the Radcliffe Line BA.

The line described above has been plotted on two copies of topographical map sheets Nos. 83D/5, 83/6 and 83D/2.

The technical experts responsible for the ground demarcation will have the authority to make minor adjustments in order to make the boundary alignment agree with the physical features as described.

The losses and gains to either country as a result of these adjustments with respect to the line marked on the map will be balanced by the technical experts.

\* \* \* \* \*

Sd/- (J.G. KHARAS)

*Acting Foreign Secretary,  
Ministry of Foreign Affairs  
and Commonwealth Relations,  
Karachi.  
NEW DELHI;  
October: 23, 1959.*

Sd/- (M.J. DESAI)

*Commonwealth Secretary,  
Ministry of External Affairs,  
NEW DELHI.*

3. EXTRACTS FROM THE AGREEMENT ENTITLED “AGREED DECISIONS AND PROCEDURES TO END DISPUTES AND INCIDENTS ALONG THE INDO-WEST PAKISTAN BORDER AREAS”, DATED THE 11TH DAY OF JANUARY, 1960.

“1. *West Pakistan-Punjab border*—Of the total of 325 miles of the border in this sector, demarcation has been completed along about

252 miles. About 73 miles of the border has not yet been demarcated due to differences between the Governments of India and Pakistan regarding interpretation of the decision and Award of the Punjab Boundary Commission presented by Sir Cyril Radcliffe as Chairman of the Commission. These differences have been settled along the lines given below in a spirit of accommodation:

- (i) *The Sarja Merja Rakh Hardit Singh and Pathanke (Amritsar-Lahore border).*—The Governments of India and Pakistan agree that the boundary between West Pakistan and India in this region should follow the boundary between the Tehsils of Lahore and Kasur as laid down under Punjab Government Notification No. 2183-E, dated 2nd June, 1939. These three villages will in consequence, fall within the territorial jurisdiction of the Government of Pakistan.

\* \* \* \* \*

- (iv) *Suleimanke (Ferozpur-Montgomery border)*—

The Governments of India and Pakistan agree to adjust the district boundaries in this region as specified in the attached Schedule and as shown in the map appended thereto as Annexure 1.

(Sd.) M.J. DESAI  
Commonwealth Secretary,  
Ministry of External  
Affairs, Government of  
India.  
NEW DELHI;  
January: 11, 1960

(Sd.) J.G. KHARAS,  
Joint Secretary,  
Ministry of Foreign  
Affairs and Commonwealth  
Relations, Government of Pakistan.

**X**  
**THE CONSTITUTION (TENTH AMENDMENT)**  
**ACT, 1961**

*An Act further to amend the Constitution of India*

*[16th August, 1961]*

BE it enacted by Parliament in the Twelfth year  
of the Republic of India as follows:—

1. (1) This Act may be called the Constitution  
(Tenth Amendment) Act, 1961. Short title  
and  
com-  
mence-  
ment.
- (2) It shall be deemed to have come into  
force on the 11th day of August, 1961.
2. In the First Schedule to the Constitution under  
the heading “THE UNION TERRITORIES”,  
after entry 6, the following entry shall be  
inserted, namely:—  
  
“7. Dadra and Nagar Haveli. The territory which immediately before the eleventh day of August 1961 was comprised in Free Dadra and Nagar Haveli’”. Amend-  
ment of  
the First  
Schedule  
to the  
Constitu-  
tion.
3. In article 240 of the Constitution, in clause (1), after entry (b), the following entry shall be inserted, namely:—  
  
“(c) Dadra and Nagar Haveli.” Amend-  
ment of  
article  
240.

**XI**

**THE CONSTITUTION (ELEVENTH AMENDMENT)**  
**ACT, 1961**

*An Act further to amend the Constitution of India*

*[19th December, 1961]*

BE it enacted by Parliament in the Twelfth Year  
of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Eleventh Amendment) Act, 1961.

Amend-  
ment of  
article 66.

2. In article 66 of the Constitution, in clause (1), for the words “members of both Houses of Parliament assembled at a joint meeting”, the words “members of an electoral college consisting of the members of the House of Parliament” shall be substituted.

Amend-  
ment of  
article 71.

3. In article 71 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

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

## XII

### THE CONSTITUTION (TWELFTH AMENDMENT) ACT, 1962

*An Act further to amend the Constitution of India*

[27th March, 1962]

Short title  
and  
com-  
mence-  
ment.

Amend-  
ment of  
the First  
Schedule  
to the  
Constitu-  
tion.

1. (1) This Act may be called the Constitution (Twelfth Amendment) Act, 1962.
- (2) It shall be deemed to have come into force on the 20th day of December, 1961.

2. In the First Schedule to the Constitution, under the heading “THE UNION TERRITORIES”, after entry 7, the following entry shall be inserted, namely:—

“8. Goa, Daman and Diu. The territories which immediately before the twentieth day of December, 1961 were comprised in Goa, Daman and Diu”.

3. In article 240 of the Constitution, in clause (1), after entry (c), the following entry shall be inserted, namely:—
- “(d) Goa, Daman and Diu”.
- Amendment of article 240.

### XIII

## THE CONSTITUTION (THIRTEENTH AMENDMENT) ACT, 1962

*An Act further to amend the Constitution of India*

[28th December, 1962]

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Thirteenth Amendment) Act, 1962. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In PART XXI of the Constitution— Amendment of Part XXI.
- (a) for the heading, the following heading shall be substituted, namely:—
- “TEMPORARY TRANSITIONAL AND SPECIAL PROVISIONS”.
- (b) after article 371, the following article shall be inserted, namely:—
- “371A. (1) Notwithstanding anything in this Constitution —
- (a) no Act of Parliament in respect of—
- (i) religious or social practices of the Nagas,
- (ii) Naga customary law and procedure,
- (iii) administration of civil and criminal justice involving decisions according to Naga customary law,
- Special provision with respect to the State of Nagaland.

- (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;
- (b) the Government 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 judgement 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 judgement, the decisions 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 judgement:
- 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 qualification for being chosen as, and for being, members of the regional council;
  - (iii) the term of office of, and the salaries and allowances, if any, to be paid to members of the regional council;
  - (iv) the procedure and conduct of business of the regional council;
  - (v) the appointment of officers and staff of the regional council and their conditions of service; 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 to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:

Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

- (d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;
- (e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister, and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;
  - (ii) the Minister for Tuensang affairs shall deal with and have, direct access to the Governor on all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;
- (f) notwithstanding anything in the foregoing provision 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 article 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 members of the Legislative Assembly of Nagaland elected by the regional council established under this article;
- (h) in article 170 —
  - (i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word “sixty”, the words “forty-six” had been substituted;

- (ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;
  - (iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung district;
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.

## XIV

### THE CONSTITUTION (FOURTEENTH AMENDMENT) ACT, 1962

*An Act further to amend the Constitution of India*

*[28th December, 1962]*

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Constitution (Fourteenth Amendment) Act, 1962.

2. In article 81 of the Constitution, in sub-clause (b) of clause (1), for the words “twenty members”, the words “twenty-five members” shall be substituted. Amendment of article 81.
3. In the First Schedule to the Constitution, under the heading “II. THE UNION TERRITORIES”, after entry 8, the following entry shall be inserted, namely:— Amendment of the First Schedule.
- “9. Pondicherry—The territories which immediately before the sixteenth day of August, 1962, were comprised in the French Establishment in India known as Pondicherry, Karikal, Mahe and Yanam”.
4. After article 239 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 239A.
- “239A. (1) Parliament may by law create for any of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondicherry— Creation of local Legislatures or Council of Ministers or both for certain Union territories.
- (a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or
- (b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.
- (2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purpose of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution”.

Amend-  
ment of  
article  
240.

5. In article 240 of the Constitution in clause (1) —
- (a) after entry (d), the following entry shall be inserted, namely:—
  - “(e) Pondicherry”;
  - (b) the following proviso shall be inserted at the end, namely:—
- “Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Goa, Daman and Diu or Pondicherry, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature.”

Amend-  
ment of  
the Fourth  
Schedule.

6. In the Fourth Schedule to the Constitution, in the Table —
- (a) after entry 20, the entry, “21. Pondicherry. I” shall be inserted;
  - (b) for the figures “225”, the figures “226” shall be substituted.

Retrospective  
operation of  
certain  
provisions.

7. Section 3 and clause (a) of section 5 shall be deemed to have come into force on the 16th day of August, 1962.

## XV

### THE CONSTITUTION (FIFTEENTH AMENDMENT) ACT, 1963

*An Act further to amend the Constitution of India*

*[5th October, 1963]*

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Fifteenth Amendment) Act, 1963.

2. In article 124 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

Amend-  
ment of  
article  
124.

“(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. In article 128 of the Constitution, after the words “Federal Court”, the words “or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court” shall be inserted.

Amend-  
ment of  
article  
128.

4. In article 217 of the Constitution—

Amend-  
ment of  
article  
217.

- (a) in clause (1), for the words “sixty years”, the words “sixty-two years” shall be substituted;
- (b) after clause (2), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

“(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final”.

5. In article 222 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

Amend-  
ment of  
article  
222.

“(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”.

Amend-  
ment of  
article  
224.

Insertion  
of new  
article  
224A.

Appoint-  
ment of  
retired  
Judges at  
sittings of  
High  
Courts.

6. In article 224 of the Constitution, in clause (3) for the words “sixty years”, the words “sixty two years” shall be substituted.

7. After article 224 of the Constitution, the following article shall be inserted, namely:—

“224A. Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person, who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court:

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

Amend-  
ment of  
article  
226.

8. In article 226 of the Constitution—

(a) after clause (1), the following clause shall be inserted, namely:—

“(1A) The power conferred by clause (1) to issue directions, orders or writs to any Government authority or person may also be exercised by any High Court exercising

jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories”.

(b) in clause (2), for the words, brackets and figure “clause (1)”, the words, brackets, figures and letter “clause (1) or clause (1A)” shall be substituted.

9. In article 297 of the Constitution, after the words “territorial waters”, the words “or the continental shelf” shall be inserted.

Amend-  
ment of  
article  
297.

10. In article 311 of the Constitution, for clauses (2) and (3) the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
311.

“(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply—

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

- (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.
- (e) 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".

Amend-  
ment of  
article  
316.

11. In article 316 of the Constitution, clause (1) the following clause shall be inserted, namely:—

“(1A) if the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof, or as the case may be, until the Chairman has, resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the State in the case of a State Commission, may appoint for the purpose.”

12. In the Seventh Schedule to the Constitution, in List 1, in entry 78, after the word “organisation”, the brackets and words (including vacations) shall be inserted and shall be deemed always to have been inserted.
- Amend-  
ment of  
the  
Seventh  
Schedule.

## XVI

### THE CONSTITUTION (SIXTEENTH AMENDMENT) ACT, 1963

*An Act further to amend the Constitution of India*

[5th October, 1963]

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Sixteenth Amendment) Act, 1963. Short title.
2. In article 19 of the Constitution—
  - (a) in clause (2), after the words “in the interests of” the words “the sovereignty and integrity of India”, shall be inserted;
  - (b) in clauses (3) and (4), after the words “in the interests of” the words “the sovereignty and integrity of India or” shall be inserted.Amend-  
ment of  
article 19.
3. In article 84 of the Constitution, for clause (a), the following clause shall be substituted, namely:—
 

“(a) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule,”.

Amend-  
ment of  
article 84.

Amend-  
ment of  
article  
173.

4. In article 173 of the Constitution, for clause (a) the following clause shall be substituted, namely:

“(a) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule.”.

Amend-  
ment of  
Third  
Schedule.

5. In the Third Schedule to the Constitution—

- (a) in form I, after the words “Constitution of India as by law established.” the words “that I will uphold the sovereignty and integrity of India,” shall be inserted;
- (b) for Form III, the following shall be substituted, namely:—

### **III**

#### **A**

Form of oath or affirmation to be made by a candidate for election to Parliament:

“I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do

Swear in the name of God

Solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India”.

#### **B**

Form of oath 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”;

(c) In forms IV, V and VIII, after the words “the Constitution of India as by law established,” the words “that I will uphold the sovereignty and integrity of India”, shall be inserted;

(d) for Form VII, the following shall be substituted, namely:—

**VII**

**A**

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

“I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly (or Legislative Council), do

Swear in the name of God

Solemnly Affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India”.

**B**

Form of oath or affirmation to be made by a member of the Legislature of a State:—

“I, A.B., having been elected (or nominated) a member of the Legislative

Assembly (or Legislative Council), do

Swear in the name of God

Solemnly affirm

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

## XVII

### **THE CONSTITUTION (SEVENTEENTH AMENDMENT) ACT, 1964**

*An Act further to amend the Constitution of India*

*[20th June, 1964]*

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Seventeenth Amendment) Act, 1964.

Amend-  
ment of  
article  
31A.

2. In article 31A of the Constitution—

(i) in clause (1), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be 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.”;

(ii) in clause (2), for sub-clause (a), the following sub-clause shall be substituted and shall be deemed always to have been substituted, namely:—

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

(i) any *jagir, inam or muafi* or other similar grant and in the States of Madras and Kerala, any *janmam* right;

(ii) any land held under raiyatwari settlement;

(iii) any land held or let for purpose 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;

3. In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely:—

Amend-  
ment of  
Ninth  
Schedule.

“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 XXVII of 1961).
32. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation 1 of 1962).

33. The Gujarat Surviving Alienation 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 1 of 1964).
40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).
41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).
42. The Madras Cultivating Tenants (Protection) Act, 1955 (Madras Act XXV of 1955).
43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).
44. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVII 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).

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- 58. The Uttar Pradesh Imposition on Ceiling on Land Holdings Act, 1960 (Uttar Pradesh Act 1 of 1961).
  - 59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954).
  - 60. The West Bengal Land Reforms Act 1955 (West Bengal Act X of 1956).
  - 61. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
  - 62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).
  - 63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
  - 64. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).

*Explanation.*—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955), in contravention of the second proviso to clause (1) of article 31A shall, to the extent of the contravention, be void ”.

## XVIII

### THE CONSTITUTION (EIGHTEENTH AMENDMENT) ACT, 1966

*An Act further to amend the Constitution of India*

*[27th August, 1966]*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:

- 1. This Act may be called the Constitution Short title. (Eighteenth Amendment) Act, 1966.

Amend-  
ment of  
article 3.

2. In article 3 of the Constitution, the following Explanations shall be inserted at the end, namely:—

*“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”.

## XIX

### THE CONSTITUTION (NINETEENTH AMENDMENT) ACT, 1966

*An Act further to amend the Constitution of India*

[11th December, 1966]

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Nineteenth Amendment) Act, 1966.

Amend-  
ment of  
article  
324.

2. In article 324 of the Constitution, in clause (1), the words “including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States” shall be omitted.

## XX

### THE CONSTITUTION (TWENTIETH AMENDMENT) ACT, 1966

*An Act further to amend the Constitution of India*

[22nd December, 1966]

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Twentieth Amendment) Act, 1966.

2. After article 233 of the Constitution, the following article shall be inserted, namely:—
- Insertion of new article 233A.
- “233A Notwithstanding any judgment, decree or order of any court—
- (a) (i) no appointment of any person already in the Judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and
- Validation of appointments of, and judgements etc., delivered by, certain district judges.
- (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.”

**XXI****THE CONSTITUTION (TWENTY-FIRST AMENDMENT)  
ACT, 1967***An Act further to amend the Constitution of India**[10th April, 1967]*

BE it enacted by Parliament in the Eighteenth  
Year of the Republic of India as follows:—

- |  |   |
|--|---|
| Short title.                             | 1. This Act may be called the Constitution<br>(Twenty-first Amendment) Act, 1967.   |
| Amend-<br>ment of<br>Eighth<br>Schedule. | 2. In the Eighth Schedule to the Constitution—<br>(a) entries 12 to 14, shall be re-numbered as<br>entries 13 to 15 respectively, and<br>(b) before entry “13” as so re-numbered, the<br>entry “12. Sindhi”. shall be inserted. |

**XXII****THE CONSTITUTION (TWENTY-SECOND  
AMENDMENT) ACT, 1969***An Act further to amend the Constitution of India**[25th September, 1969]*

BE it enacted by Parliament in the Twentieth  
Year of the Republic of India as follows:—

- |  |   |
|--|---|
| Short title.   | 1. This Act may be called the Constitution<br>(Twenty-second Amendment) Act, 1969.  |
| Insertion<br>of new<br>article<br>244A.<br><br>Formation<br>of an<br>autono-<br>mous<br>State<br>comprising<br>certain | 2. In Part X of the Constitution, after article<br>244, the following article shall be inserted,<br>namely:—<br><br>“244A. (1) Notwithstanding anything in this<br>Constitution, Parliament may, by law, form<br>within the State of Assam an autonomous<br>State comprising (Whether wholly or in part)<br>all or any of the tribal areas specified in |

- Part A 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—
- (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.

tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.

- (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”.

Amend-  
ment of  
article  
275.

3. In article 275 of the Constitution, after clause (1), the following clause shall be inserted, namely:—
- “(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 grant-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”.

4. After article 371A of the Constitution the following article shall be inserted, namely:—
- Insertion  
of new  
article  
371B.  
Special  
provision  
with  
respect to  
the State  
of Assam.

“371B. Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part A 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”.

### XXIII

#### THE CONSTITUTION (TWENTY-THIRD AMENDMENT) ACT, 1969

*An Act further to amend the Constitution of India*  
*(23rd January, 1970)*

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twentieth amendment) Act, 1969.
  2. In article 330 of the Constitution in sub-clause (b) of clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam”, the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland” shall be substituted.
- Amend-  
ment of  
article  
330.

Amend-  
ment of  
article  
332.

3. In article 332 of the Constitution, in clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam”, the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland” shall be substituted.

Amend-  
ment of  
article  
333.

4. (1) In article 333 of the Constitution, for the words “nominate such number of members of the community to the Assembly as he considers appropriate”, the words “nominate one member of that community to the Assembly” shall be substituted.
- (2) Nothing contained in sub-section (1) shall affect any representation of the Anglo-Indian community in the Legislative Assembly of any State existing at the commencement of this Act until the dissolution of that Assembly.

Amend-  
ment of  
article  
334.

5. In article 334 of Constitution, for the words “twenty years”, the words “thirty years” shall be substituted.

## XXIV

### **THE CONSTITUTION (TWENTY-FOURTH AMENDMENT) ACT, 1971**

*An Act further to amend the Constitution of India*

*[5th November, 1971]*

BE it enacted by Parliament in the Twenty-second year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Twenty-fourth Amendment), Act, 1971.

2. In article 13 of the Constitution, after clause (3), the following clause shall be inserted, namely:—
- “(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.”
3. Article 368 of the Constitution shall be re-numbered as clause (2) thereof, and—
- (a) for the marginal heading to that article, the following marginal heading shall be substituted, namely:—
- “Power of Parliament to amend the Constitution and procedure therefor.”;
- (b) before clause (2) as so re-numbered, the following clause shall be inserted, namely:—
- “(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.”;
- (c) in clause (2) as so re-numbered, for the words “it shall be presented to the President for his assent and upon such assent being given to the Bill”, the words “it shall be presented to the President who shall give his assent to the Bill and thereupon” shall be substituted;
- (d) after clause (2) as so re-numbered, the following clause shall be inserted namely:—
- (3) Nothing in article 13 shall apply to any amendment made under this article”.

Amend-  
ment of  
article 13.

Amend-  
ment of  
article  
368.

**XXV****THE CONSTITUTION (TWENTY-FIFTH AMENDMENT)  
ACT, 1971***An Act further to amend the Constitution of India**[20th April, 1972]*

BE it enacted by Parliament in the Twenty-second  
Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Constitution  
(Twenty-fifth Amendment) Act, 1971.
- Amend-  
ment of  
article 31. 2. In article 31 of the Constitution—  
(a) for clause (2A), the following clause shall  
be substituted, namely:—  
“(2) No property shall be compulsorily  
acquired or requisitioned save for a public  
purpose and save by authority of a law  
which provides for acquisition or  
requisitioning of the property for an  
amount which may be fixed by such law  
or which may be determined in  
accordance with such principles and given  
in such manner as may be specified in  
such law; and no such law shall be called  
in question in any court on the ground  
that the amount so fixed or determined is  
not adequate or that the whole or any  
part of such amount is to be given  
otherwise than in cash:  
Provided that 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) of  
article 30, 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”;
- (b) after clause (2A), the following clause shall be inserted, namely:—
- “(2B) Nothing in sub-clause (f) of clause (1) of article 19 shall affect any such law as is referred to in clause (2)”.
3. After article 31B of the Constitution, the following article shall be inserted, namely:—
- “31C. Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31; 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.”

Insertion of new article 31C.  
Saving of laws giving effect to certain directive principles.

## XXVI

### THE CONSTITUTION (TWENTY-SIXTH AMENDMENT) ACT, 1971

*An Act further to amend the Constitution of India  
(28th December, 1971)*

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-sixth Amendment) Act, 1971.

Omission  
of articles  
291 and  
362.

2. Articles 291 and 362 of the Constitution shall be omitted.

Insertion  
of new  
article  
363A.

3. After article 363 of the Constitution, the following article shall be inserted, namely:—

“363A. Notwithstanding anything, in this Constitution or in any law for the time being in force—

- (a) The Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such Ruler shall, on and from such commencement, cease to be recognised as such Ruler or the successor of such Ruler;
- (b) on and from the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and, accordingly the Ruler or, as the case may be, successor of such Ruler, referred to in clause (a) or any other person shall not be paid any sum as privy purse”.

Amend-  
ment of  
article  
366.

4. In article 366 of the Constitution, for clause (22), the following clause shall be substituted, namely:—

‘(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’;

## XXVII

### **THE CONSTITUTION (TWENTY-SEVENTH AMENDMENT) ACT, 1971**

*An Act further to amend the Constitution of India*

*[30th December, 1971]*

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. (1) This Act may be called the Constitution (Twenty-seventh Amendment) Act, 1971.</li> <li>2. In article 239A of the Constitution, in clause (1), for the words “Goa, Daman and Diu, and Pondicherry”, the words “Goa, Daman and Diu, Pondicherry and Mizoram” shall be substituted.</li> </ol> | <p><b>Short title and commencement.</b></p> <p><b>Amendment of article 239A.</b></p> |
|---|--|

Insertion  
of new  
article  
239B.

Power of  
adminis-  
trator to  
promul-  
gate  
Ordi-  
nances  
during  
recess of  
Legis-  
lature.

3. After article 239A of the Constitution, the following article shall be inserted, namely:—

“239B. (1) If at any time, except when the Legislature of a Union territory referred to in clause (1) of article 239A 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 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 on Ordinance under this article makes any provisions which would not be valid if enacted in an Act of the Legislature of the Union territory made after complying with the provisions in that behalf contained in any such law as it referred to in clause (1) of article 239A, it shall be void.”

4. In article 240 of the Constitution—

(a) in clause (1)—

(i) after entry (e), the following entries shall be inserted, namely:—

“(f) Mizoram;

(g) Arunachal Pradesh:”;

(ii) in the proviso, for the words “Union territory of Goa, Daman and Diu or Pondicherry”, the words “Union territory of Goa, Daman and Diu, Pondicherry or Mizoram” shall be substituted;

(iii) after the proviso as so amended, the following further proviso shall be inserted, namely:—

“Provided further that whenever the body functioning as a Legislature for the Union territory of Goa, Daman and Diu, Pondicherry or Mizoram is dissolved, or the functioning of that body as such Legislature remains suspended on account

Amend-  
ment of  
article  
240.

of any action taken under any such law as 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.”;

(b) in clause (2), for the words “any existing law”, the words “any other law” shall be substituted.

5. After article 371B of the Constitution, the following article shall be inserted, namely:—

“371C. (1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

(2) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

*Explanation*—In this article, the expression “Hill Areas” means such areas as the President may, by order, declare to be Hill Areas.”.

Insertion of new article 371C.  
Special provision with respect to the State of Manipur.

## XXVIII

### **THE CONSTITUTION (TWENTY-EIGHTH AMENDMENT) ACT, 1972**

*An Act further to amend the Constitution of India*

*[27th August, 1972]*

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

- |   |  |
|---|--|
| <p>1. (1) This Act may be called the Constitution (Twenty-eighth Amendment) Act, 1972.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. After article 312 of the Constitution, the following article shall be inserted, namely:—</p> <p>“312A. (1) Parliament may by law—</p> <p>(a) vary or revoke, whether prospectively or retrospectively, the conditions of service 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;</p> <p>(b) vary or revoke, whether prospectively or retrospectively, the conditions of service</p> | <p>Short title and commencement.</p> <p>Insertion of new article 312A.</p> <p>Power of Parliament to vary or revoke conditions of service of officers of certain services.</p> |
|---|--|

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.”

3. Article 314 of the Constitution shall be omitted. Omission of article 314.

## XXIX

### **THE CONSTITUTION (TWENTY-NINTH AMENDMENT) ACT, 1972**

*An Act further to amend the Constitution of India*

*[9th June, 1972]*

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-ninth Amendment) Act, 1972.

Amend-  
ment of  
Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 64 and before the *Explanation*, the following entries shall be inserted, namely:—
  - “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).”.

### XXX

## **THE CONSTITUTION (THIRTIETH AMENDMENT) ACT, 1972**

*An Act further to amend the Constitution of India*

*[22nd February, 1973]*

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title  
and  
com-  
mence-  
ment.

Amend-  
ment of  
article  
133.

1. (1) This Act may be called the Constitution (Thirtieth Amendment) Act, 1972.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 133 of the Constitution, for clause (1), the following clause shall be substituted, namely:—
  - (1) An appeal shall lie to the Supreme Court from any judgement, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies—
    - “(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.”

3. (1) Nothing in this Act shall affect—

(a) any appeal under sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (1) of article 133 of the Constitution which immediately before the commencement of this Act was pending before the Supreme Court; or

(b) any appeal preferred on or after the commencement of this Act against any judgement, decree or final order in a civil proceeding of a High Court by virtue of a certificate given by the High Court before the commencement of this Act under sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (1) of article 133;

and every such appeal may be heard and disposed of or, as the case may be, entertained, heard and disposed of by the Supreme Court as if this Act had not been passed.

(2) Subject to the provisions of sub-section (1), no appeal shall lie to the Supreme Court under clause (1) of article 133 of the Constitution from any judgement, decree or final order arising out of a suit or other civil proceeding which was instituted or commenced in any court before the commencement of this Act unless such appeal satisfies the provisions of that clause as amended by this Act.

Special provision as to pending proceedings etc.

**XXXI****THE CONSTITUTION (THIRTY-FIRST AMENDMENT)  
ACT, 1973***An Act further to amend the Constitution of India**[17th October, 1973]*

BE it enacted by Parliament in the Twenty-fourth  
Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Thirty-first Amendment) Act, 1973.

Amend-  
ment of  
article 81.

2. In article 81 of the Constitution—

- (a) in clause (1)—

- (i) in sub-clause (a), for the words “five hundred members”, the words “five hundred and twenty-five members” shall be substituted; and

- (ii) in sub-clause (b), for the words “twenty-five members”, the words “twenty members” shall be substituted;

- (b) in clause (2), after sub-clause (b), the following proviso shall be inserted namely:—

“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.”

Amend-  
ment of  
article  
330.

3. (1) In article 330 of the Constitution—

- (a) in sub-clause (b) of clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland; and”, the following shall be substituted, namely:—

“except the Scheduled Tribes—

- (i) in the tribal areas of Assam;
- (ii) in Nagaland;
- (iii) in Meghalaya;
- (iv) in Arunachal Pradesh; and
- (v) in Mizoram; and”;

(b) after clause (2), the following clause shall be inserted, namely:—

“(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.”

(2) The amendment made to article 330 of the Constitution by sub-section (1) shall not affect any representation in the House of the People until the dissolution of the House of the People existing at the commencement of this Act.

4. (1) In article 332 of the Constitution, in clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam and in Nagaland”, the words “except the Scheduled Tribes in the tribal areas of Assam, in Nagaland and in Meghalaya” shall be substituted.

Amend-  
ment of  
article  
332.

(2) The amendment made to article 332 of the Constitution by sub-section (1) shall not affect any representation in the Legislative

Assembly of the State of Meghalaya until the dissolution of that Legislative Assembly existing at the commencement of this Act.

## XXXII

### **THE CONSTITUTION (THIRTY-SECOND AMENDMENT) ACT, 1973**

*An Act further to amend the Constitution of India*

*[3rd May, 1974]*

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

Short title and commen-  
cement.

1. (1) This Act may be called the Constitution (Thirty-second Amendment) Act, 1973.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
371.

2. Clause (1) of article 371 of the Constitution shall be omitted, and in the marginal heading to that article, the words “Andhra Pradesh,” shall be omitted.

Insertion  
of new  
articles  
371D and  
371E.

3. After article 371C of the Constitution, the following articles shall be inserted, namely:—

Special  
provisions  
with  
respect to  
the State  
of Andhra  
Pradesh.

“371D. (1) The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.

- (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, of any class or classes or 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 the State of Andhra Pradesh to exercise such jurisdiction, powers and authority [including any jurisdiction, power and authority] which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority as may be specified in the order with respect to the following matters, namely:—

(a) appointment, allotment or promotion to such class or classes of posts in a 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 services 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 of 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 judgement, 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), 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.

Establishment of Central University in Andhra Pradesh.

371E. Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh."

Amendment of Seventh Schedule.

4. In the Seventh Schedule to the Constitution, in List-1, in entry 63 for the words "Delhi University, and", the words, figures and letter "Delhi University; the University established in pursuance of article 371E," shall be substituted.

### XXXIII

#### **THE CONSTITUTION (THIRTY-THIRD AMENDMENT) ACT, 1974**

*An Act further to amend the Constitution of India.*

[19th May, 1974]

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Constitution (Thirty-third Amendment) Act, 1974.

Amendment of article 101. 2. In article 101 of the Constitution, in clause (3)—

(1) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(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.”

(2) the following proviso shall be inserted at the end, namely:—

“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.”

3. In article 190 of the Constitution, in clause (3)—  
Amendment of article 190.

(1) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(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”;

(2) the following proviso shall be inserted at the end, namely:—

“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.”

**XXXIV****THE CONSTITUTION (THIRTY-FOURTH  
AMENDMENT) ACT, 1974***An Act further to amend the Constitution of India.**[7th September, 1974]*

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Thirty-fourth Amendment) Act, 1974.

Amend-  
ment of  
Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 66 and before the *Explanation*, the following entries shall be inserted, namely:—

- “67. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Andhra Pradesh Act I of 1973).
- 68. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land, Amendment) Act, 1972 (Bihar Act I of 1973).
- 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 Estate (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)."

### XXXV

#### **THE CONSTITUTION (THIRTY-FIFTH AMENDMENT) ACT, 1974**

*An Act further to amend the Constitution of India.*

*[22nd February, 1975]*

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

- |   |  |
|---|--|
| Short title,<br>and<br>commen-<br>cement.           | 1. (1) This Act may be called the Constitution (Thirty-fifth Amendment) Act, 1974.<br><br>(2) It shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint.   |
| Insertion of<br>New Article<br>2A.                  | 2. After article 2 of the Constitution, the following article shall be inserted, namely:—<br><br>“2A. Sikkim, which comprises the territories specified in the Tenth Schedule, shall be associated with the Union on the terms and conditions set out in that Schedule.” |
| Sikkim to<br>be<br>associated<br>with the<br>Union. | 3. In article 80 of the Constitution, in clause (1), for the words “The Council of States”, the words and figure “Subject to the provisions of paragraph 4 of the Tenth Schedule, the Council of States” shall be substituted.   |
| Amend-<br>ment of<br>article 80.                    | 4. In article 81 of the Constitution, in clause (1), for the words and figures “Subject to the provisions of article 331”, the words   |
| Amend-<br>ment of<br>article 81.                    |  |

and figures “Subject to the provisions of article 331 and paragraph 4 of the Tenth Schedule” shall be substituted.

5. After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely:—

**TENTH SCHEDULE**  
[Articles 2A, 80 (1) And 81 (1)]

**PART A**

Territories of Sikkim

- 1. Sikkim**—Sikkim comprises the following territories, namely:—

The territories which, immediately before the coming into force of the Government of Sikkim Act, 1974 were comprised in Sikkim.

**PART B**

Terms and Conditions of Association of  
Sikkim with the Union

- 2. Responsibilities of the Government of India**—The Government of India—

- (1) (a) shall be solely responsible for the defence and territorial integrity of Sikkim and for the conduct and regulation of the external relations of Sikkim, whether political, economic or financial;
- (b) shall have the exclusive right of constructing, maintaining and regulating the use of railways, aerodromes, landing grounds and air navigation facilities, posts, telegraphs, telephones and wireless installations in Sikkim;

- (c) shall be responsible for securing the economic and social development of Sikkim and for ensuring good administration and for the maintenance of communal harmony therein;
  - (d) shall be responsible for providing facilities for students from Sikkim in institutions for higher learning in India and for the employment or people from Sikkim in the public services of India (including the All-India Services), at par with those available to citizens of India;
  - (e) shall be responsible for providing facilities for the participation and representation of the people of Sikkim in the political institutions of India.
- (2) The provisions contained in this paragraph shall not be enforceable by any court.
- 3. Exercise of certain powers by the President.**—The President may, by general or special order, provide—
- (a) for the inclusion of the planned development of Sikkim within the ambit of the planning authority of India while that authority is preparing plans for the economic and social development of India, and for appropriately associating officials from Sikkim in such work;
  - (b) for the exercise of all or any of the powers vested or sought to be vested in the Government of India in or in relation to Sikkim under the Government of Sikkim Act, 1974.

**4. Representation in Parliament.—**

Notwithstanding anything in this Constitution—

- (a) there shall be allotted to Sikkim one seat in the Council of States and one seat in the House of the People;
- (b) the representative of Sikkim in the Council of States shall be elected by the members of the Sikkim Assembly;
- (c) the representative of Sikkim in the House of the People shall be chosen by direct election, and for this purpose, the whole of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim:

Provided that the representative of Sikkim in the House of the People in existence at the commencement of the Constitution (Thirty-fifth Amendment) Act, 1974, shall be elected by the members of the Sikkim Assembly:—

- (d) there shall be one general electoral roll for the parliamentary constituency for Sikkim and every person whose name is for the time being entered in the electoral roll of any constituency under the Government of Sikkim Act, 1974, shall be entitled to be registered in the general electoral roll for the parliamentary constituency for Sikkim;
- (e) a person shall not be qualified to be the representative of Sikkim in the Council of States or the House of the People unless he is also qualified to be chosen

to fill a seat in the Sikkim Assembly and in the case of any such representative—

- (i) clause (a) of article 84 shall apply as if the words “is a citizen of India, and” had been omitted therefrom;
- (ii) clause (3) of article 101 shall apply as if sub-clause (a) had been omitted therefrom;
- (iii) sub-clause (d) of clause (1) of article 102 shall apply as if the words “is not a citizen of India, or”, had been omitted therefrom;
- (iv) article 103 shall not apply;

(f) every representative of Sikkim in the Council of States or in the House of the People shall be deemed to be a member of the Council of States or the House of the People, as the case may be for all the purposes of this Constitution except as respect the election of the President or the Vice-President;

Provided that in the case of any such representative, clause (2) of article 101 shall apply as if for the words “a House of the Legislature of a State”, in both the places where they occur, and for the words “the Legislature of the State”, the words “the Sikkim Assembly” had been substituted;

(g) if a representative of Sikkim being a member of the Council of States or the House of the People, becomes subject to any of the disqualifications for being a member of the Sikkim Assembly or for

being the representative of Sikkim in the Council of States or the House of the People, his seat as a member of the Council of States or the House of the People, as the case may be, shall thereupon become vacant;

- (h) if any question arises as to whether a representative of Sikkim, being a member of the Council of States or the House of the People, has become subject to any of the disqualifications mentioned in clause (g) of this paragraph, the question shall be referred for the decision of the President and his decision shall be final:

Provided that 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;

- (i) the superintendence, direction and control of the preparation of the electoral rolls for and the conduct of elections to Parliament under this paragraph of the representatives of Sikkim shall be vested in the Election Commission and the provisions of clauses (2), (3), (4) and (6) of article 324 shall, so far as may be, apply to and in relation to all such elections;
- (j) Parliament may, subject to the provisions of this paragraph, from time to time by law make provision with respect to all matters relating to, or in connection with, such elections to either House of Parliament;

- (k) no such election to either House of Parliament 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 Parliament.

*Explanation*—In this paragraph, the expression “the Sikkim Assembly” shall mean the Assembly for Sikkim constituted under the Government of Sikkim Act, 1974.

- 5. Schedule not to derogate from agreements, etc.**—The provisions of this Schedule shall be in addition to, and not in derogation of, any other power, jurisdiction, rights and authority which the Government of India has or may have in or in relation to Sikkim under any agreement, grant usage, sufferance or other lawful arrangement.’

## XXXVI

### **THE CONSTITUTION (THIRTY-SIXTH AMENDMENT) ACT, 1975**

*An Act further to amend the Constitution of India*

*[16th May, 1975]*

BE it enacted by Parliament in the Twenty-sixth  
Year of the Republic of India as follows:—

Short title,  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Thirty-sixth Amendment) Act, 1975.
- (2) It shall be deemed to have come into force on the date on which the Bill for this Act [introduced in the House of the People as the Constitution (Thirty-eighth

Amendment) Bill, 1975] as passed by the House of the People, is passed by the Council of States.

2. In the First Schedule to the Constitution, under the heading “I. THE STATES”, after entry 21, the following entry shall be inserted, namely:—

“22. Sikkim—The territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim.”

3. After article 371E of the Constitution, the following article shall be inserted, namely:—

“371F. 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 (hereinafter 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

Amend-  
ment of  
First  
Schedule.

Insertion of  
new article  
371F.

Special  
provisions  
with  
respect to  
the State  
of Sikkim.

- (iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;
- (c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of five years in clause (1) of article 172 shall be construed as references to a period of four years and the said period of 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 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 discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;
- (h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim, shall, as from the appointed day, vest in the Government of the State of Sikkim;
- (i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;
- (j) all courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial—executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;
- (k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;

- (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:

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”.

- |  |  |
|--|--|
| <p>4. In the Fourth Schedule to the Constitution, in the Table—</p> <p>(a) after entry 21, the following entry shall be inserted, namely:—</p> <p style="padding-left: 20px;">“22. Sikkim. .... I”;</p> <p>(b) existing entries 22 to 25 shall be renumbered as entries 23 to 26 respectively;</p> <p>(c) for the figures “231”, the figures “232” shall be substituted.</p> | <p>Amend-<br/>ment of<br/>Fourth<br/>Schedule.</p> |
| <p>5. The following consequential amendments shall be made in the Constitution, namely:—</p> <p>(a) article 2A shall be omitted;</p> <p>(b) in article 80, in clause (1), the words and figure “Subject to the provisions of paragraph 4 of the Tenth Schedule”, shall be omitted;</p>   | <p>Conse-<br/>quential<br/>amend-<br/>ments.</p>   |

- (c) in article 81, in clause (1), the words and figure “and paragraph 4 of the Tenth Schedule” shall be omitted;
- (d) the Tenth Schedule shall be omitted.

### XXXVII

#### **THE CONSTITUTION (THIRTY-SEVENTH AMENDMENT) ACT, 1975**

*An Act further to amend the Constitution of India*

*[3rd May, 1975]*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

- |                            |  |
|----------------------------|--|
| Short title.               | 1. This Act may be called the Constitution (Thirty-seventh Amendment) Act, 1975.   |
| Amendment of article 239A. | 2. In article 239A of the Constitution, in clause(1), for the words “Pondicherry and Mizoram”, the words “Pondicherry, Mizoram and Arunachal Pradesh” shall be substituted.                    |
| Amendment of article 240.  | 3. In article 240 of the Constitution, in clause(1), in both the provisos, for the words “Pondicherry or Mizoram”, the words “Pondicherry, Mizoram or Arunachal Pradesh” shall be substituted. |

### XXXVIII

#### **THE CONSTITUTION (THIRTY-EIGHTH AMENDMENT) ACT, 1975**

*An Act further to amend the Constitution of India*

*[1st August, 1975]*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

- |              |   |
|--------------|---|
| Short title. | 1. This Act may be called the Constitution (Thirty-eighth Amendment) Act, 1975. |
|--------------|---|

2. In article 123 of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
- “(4) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”
- Amendment of article 123.
3. In article 213 of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
- “(4) Notwithstanding anything in this Constitution, the satisfaction of the Governor mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”
- Amendment of article 213.
4. In article 239B of the Constitution, after clause (3), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
- “(4) Notwithstanding anything in this Constitution, the satisfaction of administrator mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”
- Amendment of article 239B.
5. In article 352 of the Constitution, after clause (3), the following clauses shall be inserted, and shall be deemed always to have been inserted, namely:—
- “(4) The power conferred on the President by this article shall include the power to issue different Proclamations on different grounds,
- Amendment of article 352.

being war or external aggression or internal disturbance or imminent danger of war or external aggression or internal disturbance, whether or not there is a Proclamation already issued by the President under clause (1) and such Proclamation is in operation.

Amend-  
ment of  
article  
356.

- (5) Notwithstanding anything in this Constitution—
  - (a) the satisfaction of the President mentioned in clause (1) and clause (3) shall be final and conclusive and shall not be questioned in any court on any ground;
  - (b) subject to the provisions of clause (2), neither the Supreme Court nor any other court shall have jurisdiction to entertain any question, on any ground, regarding the validity of—
    - (i) a declaration made by Proclamation by the President to the effect stated in clause (1); or
    - (ii) the continued operation of such Proclamation.”

- 6. In article 356 of the Constitution, after clause (4), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—

“(5) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”.

Amend-  
ment of  
article  
359.

- 7. In article 359 of the Constitution, after clause (1), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
  - “(1A) While an order made under clause (1) mentioning any of the rights conferred by

Part III 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.”

8. In article 360 of the Constitution, after clause (4), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
- Amend-  
ment of  
article  
360.
- “(5) Notwithstanding anything in this Constitution—
- (a) the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground;
  - (b) subject to the provisions of clause (2), neither the Supreme Court nor any other court shall have jurisdiction to entertain any question, on any ground, regarding the validity of—
    - (i) a declaration made by Proclamation by the President to the effect stated in clause (1); or
    - (ii) the continued operation of such Proclamation.”

**XXXIX****THE CONSTITUTION (THIRTY-NINTH AMENDMENT)  
ACT, 1975***An Act further to amend the Constitution of India**[10th August, 1975]*

BE it enacted by Parliament in the Twenty-sixth  
Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution  
(Thirty-ninth Amendment) Act, 1975.

Substitu-  
tion of  
new  
article for  
article 71.

2. For article 71 of the Constitution, the  
following article shall be substituted,  
namely:—

“71. (1) 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,  
including the grounds on which such election  
may be questioned:

Matters  
relating to  
or con-  
nected  
with the  
election of  
a Presi-  
dent or  
Vice-  
President.

Provided that 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.

(2) 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 such authority or body and in  
such manner as may be provided for by or  
under any law referred to in clause (1).

(3) The validity of any such law as is referred  
to in clause (1) and the decision of any  
authority or body under such law shall not  
be called in question in any court.

- (4) If the election of a person as President or Vice-President is declared void under any such law as is referred to in clause (1), 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 such declaration shall not be invalidated by reason of that declaration.”
3. In article 329 of the Constitution, for the words “Notwithstanding anything in this Constitution —”, the words, figures and letter “Notwithstanding anything in this Constitution but subject to the provisions of article 329A—” shall be substituted.
4. In Part XV of the Constitution, after article 329, the following article shall be inserted, namely:—
- “329A. (1) Subject to the provisions of Chapter II of Part V [except sub-clause (e) of clause (1) of article 102], no election —
- (a) to either House of Parliament of a person, who holds the office of Prime Minister at the time of such election or is appointed as Prime Minister after such election;
  - (b) to the House of the People of a person who holds the office of Speaker of that House at the time of such election or who is chosen as the Speaker for that House after such election:
- shall be called in question, except before such authority [not being any such authority as is referred to in clause (b) of

Amend-  
ment of  
article  
329.

Insertion  
of new  
article  
329A.

Special  
provision  
as to  
elections  
to Parlia-  
ment in  
the case  
of Prime  
Minister  
and  
Speaker.

article 329] or body and in such manner as may be provided for by or under any law made by Parliament and any such law may provide for all other matters relating to doubts and disputes in relation to such election including the grounds on which such election may be questioned.

- (2) The validity of any such law as is referred to in clause (1) and the decision of any authority or body under such law shall not be called in question in any court.
- (3) Where any person is appointed as Prime Minister or, as the case may be, chosen to the office of the Speaker of the House of the People, while an election petition referred to in clause (b) of article 329 in respect of his election to either House of Parliament or, as the case may be, to the House of the People is pending, such election Petition shall abate upon such person being appointed as Prime Minister or, as the case may be, being chosen to the office of the Speaker of the House of the People, but such election may be called in question under any such law as is referred to in clause (1).
- (4) No law made by Parliament before the commencement of the Constitution (Thirty-ninth Amendment) Act, 1975, in so far as it relates to election petitions and matters connected therewith, shall apply or shall be deemed ever to have applied to or in relation to the election of any such person as is referred to in clause (1) to either House of Parliament and such election shall not be deemed to

be void or ever to have become void on any ground on which such election could be declared to be void or has, before such commencement, been declared to be void under any such law and notwithstanding any order made by any court, before such commencement, declaring such election to be void, such election shall continue to be valid in all respects and any such order and any finding on which such order is based shall be and shall be deemed always to have been void and of no effect.

- (5) Any appeal or cross appeal against any such order of any court as is referred to in clause (4) pending immediately before the commencement of the Constitution (Thirty-ninth Amendment) Act, 1975, before the Supreme Court shall be disposed of in conformity with the provisions of clause (4).
- (6) The provisions of this article shall have effect notwithstanding anything contained in this Constitution".
5. In the Ninth Schedule to the Constitution, after entry 86 and before the *Explanation*, the following entries shall be inserted, namely:—
- "87. The Representation of the People Act, 1951 (Central Act 43 of 1951), the Representation of the People (Amendment) Act, 1974 (Central Act 58 of 1974) and the Election Laws (Amendment) Act, 1975 (Central Act 40 of 1975)."

Amend-  
ment of  
the Ninth  
Schedule.

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).
92. The Maintenance of Internal Security Act, 1971 (Central Act 26 of 1971).
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).
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).

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- 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).

## XL

### **THE CONSTITUTION (FORTIETH AMENDMENT) ACT, 1976**

*An Act further to amend the Constitution of India*

*[27th May, 1976]*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fortieth Amendment) Act, 1976.

2. For article 297 of the Constitution, the following article shall be substituted, namely:—

“297. (1) All lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclusive economic zone of India shall vest in the Union and be held for the purposes of the Union.

(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

Things of value within territorial waters or continental shelf and resources of the exclusive economic zone to vest in the Union.

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.”

Amend-  
ment of  
the Ninth  
Schedule.

3. In the Ninth Schedule to the Constitution, after entry 124 and before the *Explanation*, the following entries shall be inserted, namely:—
  - “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).
  130. The Prevention of Publication of Objectionable Matter Act, 1976 (Central Act 27 of 1976).
  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).
  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 Mahwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961 (Maharashtra Regulation I 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 Forests (Acquisition) Act, 1975 (Maharashtra Act XXIX of 1975).
159. The Maharashtra Agricultural Lands (Ceiling on Holdings and Amendment) Act, 1975 (Maharashtra Act XLVII of 1975).
160. The Maharashtra Agricultural Lands (Ceiling on Holdings and 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 Land-owners' 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 1 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).

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- 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)."

## XLI

### **THE CONSTITUTION (FORTY-FIRST AMENDMENT) ACT, 1976**

*An Act further to amend the Constitution of India*

*[7th September, 1976]*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Forty-first Amendment) Act, 1976.

Amend-  
ment of  
article  
316.

2. In article 316 of the Constitution, in clause (2) for the words “sixty years”, the words “sixty-two years” shall be substituted.

## XLII

### **THE CONSTITUTION (FORTY-SECOND AMENDMENT) ACT, 1976**

*An Act further to amend the Constitution of India*

*[18th December, 1976]*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Constitution (Forty-second Amendment) Act, 1976.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amend-  
ment of  
the  
Preamble.

2. In the preamble to the Constitution,—
  - (a) for the words “SOVEREIGN DEMOCRATIC REPUBLIC”, the words “SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC” shall be substituted; and
  - (b) for the words “unity of the Nation”, the words “unity and integrity of the Nation” shall be substituted.

Insertion  
of new  
sub-  
heading  
after  
article 31.

3. After article 31 of the Constitution, the following sub-heading shall be inserted, namely:—

*“Saving of Certain Laws”*

4. In article 31C of the Constitution, for the words, brackets, letters and figures “the principles specified in clause (b) or clause (c) of article 39”, the words and figures “all or any of the principles laid down in Part IV” shall be substituted. Amendment of article 31C.
5. After article 31C of the Constitution and before the sub-heading “*Right to Constitutional Remedies*”, the following article shall be inserted, namely:— Insertion of new article 31D.
- ‘31D. (1) Notwithstanding anything contained in article 13, no law providing for— Saving of laws in respect of anti-national activities.
- (a) the prevention or prohibition of anti-national activities; or
- (b) the prevention of formation of, or the prohibition of, anti-national associations, shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, article 14, article 19 or article 31.
- (2) Notwithstanding anything in this Constitution, Parliament shall have, and the Legislature of a State shall not have power to make laws with respect to any of the matter referred to in sub-clause (a) or sub-clause (b) of clause (1).
- (3) Any law with respect to any matter referred to in sub-clause (a) or sub-clause (b) of clause (1) which is in force immediately before the commencement of section 5 of the Constitution (Forty-second Amendment) Act, 1976, shall continue in force until altered or repealed or amended by Parliament.

(4) In this article—

- (a) “association” means an association of persons;
- (b) “anti-national activity”, in relation to an individual or association, means any action taken by such individual or association—
  - (i) which is intended, or which supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India or which incites any individual or association to bring about such cession or secession;
  - (ii) which disclaims, questions, threatens, disrupts or is intended to threaten or disrupt the sovereignty and integrity of India or the security of the State or the unity of the nation;
  - (iii) which is intended or which is part of a scheme which is intended, to overthrow by force the Government as by law established;
  - (iv) which is intended, or which is part of a scheme which is intended, to create internal disturbance or the disruption of public services;
  - (v) which is intended or which is part of a scheme which is intended to threaten or disrupt harmony between different religious, racial, language or regional groups or castes or communities;

(c) “anti-national association”; means an association—

- (i) which has for its object any anti-national activity;
- (ii) which encourages or aids persons to undertake or engage in any anti-national activity;
- (iii) the members whereof undertake or engage in any anti-national activity.’

6. After article 32 of the Constitution, the following article shall be inserted, namely:

“32A. Notwithstanding anything in article 32, the Supreme Court shall not consider the constitutional validity of any State law in any proceedings under that article unless the constitutional validity of any Central law is also in issue in such proceedings.”

Insertion  
of new  
article  
32A.

Constitu-  
tional  
validity of  
State laws  
not to be  
considered  
in pro-  
ceedings  
under  
article 32.

7. In article 39 of the Constitution, for clause (f), the following clause shall be substituted, namely:

“(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.”

Amend-  
ment of  
article 39.

8. After article 39 of the Constitution, the following article shall be inserted, namely:

“39A. The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and

Insertion of  
new article  
39A.

Equal  
justice and  
free legal  
aid.

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.”

Insertion of new article 43A.

Participation of workers in management of industries.

Insertion of new article 48A.

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

Insertion of new Part-IVA.

9. After article 43 of the Constitution, the following article shall be inserted, namely:—

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

10. After article 48 of the Constitution, the following article shall be inserted, namely:—

“48A. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”

11. After Part IV of the Constitution, the following Part shall be inserted, namely:—

### **PART-IVA**

#### **FUNDAMENTAL DUTIES**

Fundamental duties.

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

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

- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion of 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.”

12. In article 55 of the Constitution, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Amend-  
ment of  
article 55.

“*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 the *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 2000 have been published, be construed as a reference to the 1971 census.”

Amend-  
ment of  
article 74.

13. In article 74 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(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.”.

Amend-  
ment of  
article 77.

14. In article 77 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(4) No court or other authority shall be entitled to require the production of any rules made under clause (3) for the more convenient transaction of the business of the Government of India.”.

Amend-  
ment of  
article 81.

15. In article 81 of the Constitution, to clause (3), the following proviso shall be added, namely:—

“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 2000 have been published, be construed as a reference to the 1971 census.”.

16. In article 82 of the Constitution, after the proviso, the following proviso shall be inserted, namely:—

“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 of the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article.”.

17. (1) In article 83 of the Constitution, in clause (1), for the words “five years” in the two places where they occur, the words “six years” shall be substituted.

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

18. In article 100 of the Constitution, clauses (3) and (4) shall be omitted.

Amend-  
ment of  
article 82.

Amend-  
ment of  
article 83.

Amend-  
ment of  
article  
100.

Amend-  
ment of  
article  
102.

19. In article 102 of the Constitution, for sub-clause (a) or clause (1), the following sub-clause shall be substituted, namely:—

“(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.”.

Substitution  
of new  
article  
for  
article 103.

20. For article 103 of the Constitution, the following article shall be substituted, namely:—

Decision  
on  
questions  
as to  
disqualifi-  
cation.

“103. (1) if any question arises—

(a) 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, or

(b) as to whether a person, found guilty of a corrupt practice at an election to a House of Parliament under any law made by Parliament, shall be disqualified for being chosen as, and for being, a member of either House of Parliament, or of a House of the Legislature of a State, or as to the period for which he shall be so disqualified, or as to the removal of, or the reduction of the period of, such disqualification,

the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall consult the Election Commission and the Election Commission may, for this purpose, make such inquiry as it thinks fit.”.

21. In article 105 of the Constitution, for clause (3), the following clause shall be substituted, namely:—
- “(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 those of that House, and of its members and committees at the commencement of section 21 of the Constitution (Forty-second Amendment) Act, 1976, and as may be evolved by such House of Parliament from time to time.”.
- Amendment of article 105.
22. In article 118 of the Constitution, in clause (1), after the words “its procedure”, the brackets and words “(including the quorum to constitute a meeting of the House)” shall be inserted.
- Amendment of article 118.
23. After article 131 of the Constitution, the following article shall be inserted, namely:—
- “131A. (1) Notwithstanding anything contained in any other provision of this Constitution the Supreme Court shall, to the exclusion of any other court, have jurisdiction to determine all questions relating to the constitutional validity of any Central law.
- (2) Where a High Court is satisfied—
- (a) that a case pending before it or before a court subordinate to it involves questions as to the constitutional validity of any Central law or, as the case may be, of both Central and State laws; and
- (b) that the determination of such question is necessary for the disposal of the case, the High Court shall refer the questions for the decision of the Supreme Court.
- Insertion of new article 131A.
- Exclusive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws.

(3) Without prejudice to the provisions of clause (2), where, on an application made by the Attorney-General of India, the Supreme Court is satisfied —

- (a) that a case pending before a High Court or before a court subordinate to a High Court involves questions as to the constitutional validity of any Central law, or as the case may be, of both Central and State laws; and
- (b) that the determination of such questions is necessary for the disposal of the case,

the Supreme Court may require the High Court to refer the questions to it for its decision.

(4) When a reference is made under clause (2) or clause (3), the High Court shall stay all proceedings in respect of the case until the Supreme Court decides the questions so referred.

(5) The Supreme Court shall, after giving the parties an opportunity of being heard, decide the questions so referred, and may—

- (a) either dispose of the case itself; or
- (b) return the case to the High Court together with a copy of its judgement on such questions for disposal of the case in conformity with such judgement by the High Court or, as the case may be, the court subordinate to it.”.

Insertion of  
new article  
139A.  
Transfer  
of certain  
cases.

24. After article 139 of the Constitution, the following article shall be inserted, namely:—

“139A. (1) if, on an application made by the Attorney-General of India, the Supreme Court

is satisfied that cases involving the same or substantially the same questions of law are pending before it and one or more High Courts or before two or more High Courts and 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 cases itself.

(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".

25. After article 144 of the Constitution, the following article shall be inserted, namely:—

**“144A. (1)** The minimum number of Judges of the Supreme Court, who shall sit for the purpose of determining any question as to the constitutional validity of any Central law or State law shall be seven.

(2) A Central law or a State law shall not be declared to be constitutionally invalid by the Supreme Court unless a majority of not less than two-thirds of the Judges sitting for the purpose of determining the question as to the constitutional validity of such law hold it to be constitutionally invalid.”.

26. In article 145 of the Constitution—

(a) in clause (1), after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(cc) rules as to the proceedings in the Court under articles 131A and 139A;”

Insertion of new article 144A.

Special provisions as to disposal of questions relating to constitutional validity of laws.

Amend-  
ment of  
article  
145.

- (b) in clause (2), for the words, brackets and figure “provisions of clause (3)”, the words, figures, letter and brackets “provisions of article 144A and of clause (3)” shall be substituted;
- (c) in clause (3), for the words “The minimum number”, the words, figures and letter “Subject to the provisions of article 144A, the minimum number” shall be substituted.

Substitution of new article 150.

27. For article 150 of the Constitution, the following article shall be substituted, namely:—

Form of accounts of the Union and of the States.

“150. The accounts of the Union and of the State shall be kept in such form as the President may, after consultation with the Comptroller and Auditor-General of India, prescribe.”.

Amendment of article 166.

28. In article 166 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

“(4) No court or other authority shall be entitled to require the production of any rules made under clause (3) for more convenient transaction of the business of the Government of the State.”

Amendment of article 170.

29. In article 170 of the Constitution—

(a) in clause (2), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*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 the *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 2000 have been published, be construed as a reference to the 1971 census’;

(b) in clause (3), after the proviso, the following proviso shall be inserted, namely:—

“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 2000 have been published, it shall not be necessary to readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause”.

30. (1) In article 172 of the Constitution, in clause (1), for the words “five years” in the two places where they occur, the words “six years” shall be substituted.
- (2) The amendments made by sub-section (1) to clause (1) of article 172 shall apply also
- Amendment of article 172.

to every Legislative Assembly (including the Legislative Assembly of the State of Kerala) in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of such Assembly under the proviso to that clause.

Amendment of article 189.

Amendment of article 191.

Substitution of new article for article 192.

Decision on questions as to disqualification.

31. In article 189 of the Constitution, clauses (3) and (4) shall be omitted.
32. In article 191 of the Constitution, for sub-clause (a) of clause (1), the following sub-clause shall be substituted, namely:—

“(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;”.
33. For article 192 of the Constitution, the following article shall be substituted, namely:—

“192. (1) if any question arises—
  - (a) 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, or
  - (b) as to whether a person, found guilty of a corrupt practice at an election to a House of the Legislature of a State under any law made by Parliament, shall be disqualified for being chosen as, and for being a member of either House of Parliament or of a House of the Legislature of a State, or as to the period

for which he shall be so disqualified, or as to the removal of, or the reduction of the period of, such disqualification,

the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question the President shall consult the Election Commission and the Election Commission may, for this purpose, make such inquiry as it thinks fit.”.

34. In article 194 of the Constitution, for clause (3), the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
194.

(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 Legislature of a State, so far as may be, in accordance with those 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.

35. In article 208 of the Constitution, in clause (1), after the words “its procedure”, the brackets and words “(including the quorum to constitute a meeting of the House)” shall be inserted.

Amend-  
ment of  
article  
208.

Amend-  
ment of  
article  
217.

36. In article 217 of the Constitution, in clause (2)—
- (a) in sub-clause (b), the word “or” shall be inserted at the end;
  - (b) after sub-clause (b), the following sub-clause shall be inserted, namely:—
  - “(c) is, in the opinion of the President, a distinguished jurist.”;
  - (c) in the *Explanation*, in clause (a), for the words “has held judicial office”, the words “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” shall be substituted.

Amend-  
ment of  
article  
225.

37. In article 225 of the Constitution, the proviso shall be omitted.

Substitution  
of new  
article for  
article 226.

Power of  
High Courts  
to issue  
certain  
writs.

38. For article 226 of the Constitution, the following article shall be substituted, namely:—

“226. (1) Notwithstanding anything in article 32 but subject to the provisions of article 131A and article 226A, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, or any of them—

- (a) for the enforcement of any of the rights conferred by the provisions of Part III; or

- (b) for the redress of any injury of a substantial nature by reason of the contravention of any other provision of this Constitution or any provision of any enactment or Ordinance or any order, rule, regulation, bye-law or other instrument made thereunder; or
  - (c) for the redress of any injury by reason of any illegality in any proceedings by or before any authority under any provision referred to in sub-clause (b) where such illegality has resulted in substantial failure of justice.
- (2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.
- (3) No petition for the redress of any injury referred to in sub-clause (b) or sub-clause (c) of clause (1) shall be entertained if any other remedy for such redress is provided for by or under any other law for the time being in force.
- (4) No interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to a petition under clause (1) unless—
- (a) copies of such petition and of all documents in support of the plea for such

interim order are furnished to the party against whom such petition is filed or proposed to be filed; and

(b) opportunity is given to such party to be heard in the matter.

(5) The High Court may dispense with the requirements of sub-clauses (a) and (b) of clause (4) and make an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being caused to the petitioner which cannot be adequately compensated in money but any such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the High Court has continued the operation of the interim order.

(6) Notwithstanding anything in clause (4) or clause (5), no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, a petition under clause (1) where such order will have the effect of delaying any inquiry into a matter of public importance or any investigation or inquiry into an offence punishable with imprisonment or any action for the execution of any work or project of public utility, or the acquisition of any property for such acquisition of any property for such execution, by the government or any corporation owned or controlled by the Government.

(7) 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.”.

39. After article 226 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 226A.

“226. Notwithstanding anything in article 226, the High Court shall not consider the constitutional validity of any Central law in any proceedings under that article.”. Constitutional validity of Central laws not to be considered in proceedings under article 226.

40. In article 227 of the Constitution — Amendment of article 227.

- (a) for clause (1), the following clause shall be substituted, namely:—

“(1) Every High Court shall have superintendence over all courts subject to its appellate jurisdiction.”

- (b) after clause (4), the following clause shall be inserted, namely:—

“(5) Nothing in this article shall be construed as giving to a High Court any jurisdiction to question any judgement of any inferior court which is not otherwise subject to appeal or revision.”.

41. In article 228 of the Constitution, for the words “it shall withdraw the case and may.....”, words, figures and letter “it shall withdraw the case and subject to the provisions of article 131A, may—” shall be substituted. Amendment of article 228.

Special provisions as to disposal of questions relating to constitutional validity of state laws.

42. After article 228 of the Constitution, the following article shall be inserted, namely:—
- “228A. (1) No High Court shall have jurisdiction to declare any Central law to be constitutionally invalid.
- (2) Subject to the provisions of article 131A, the High Court may determine all questions relating to the constitutional validity of any State law.
- (3) The minimum number of Judges who shall sit for the purpose of determining any question as to the constitutional validity of any State law shall be five:
- Provided that where the High Court consists of less than five Judges, all the Judges of the High Court may sit and determine such question.
- (4) A State law shall not be declared to be constitutionally invalid by the High Court unless —
- (a) where the High Court consists of five Judges or more, not less than two-thirds of the Judges sitting for the purpose of determining the validity of such law, hold it to be constitutionally invalid; and
  - (b) where the High Court consists of less than five Judges, all the Judges of the High Court sitting for the purpose hold it to be constitutionally invalid.
- (5) The provisions of this article shall have effect notwithstanding anything contained in this Part.

*Explanation*—In computing the number of Judges of a High Court for the purposes of

this article, a Judge who is disqualified by reason of personal or pecuniary bias shall be excluded.”.

43. After article 257 of the Constitution, the following article shall be inserted, namely:—

“257A. (1) The Government of India may deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State.

(2) Any armed force or other force or any contingent or unit thereof deployed under clause (1) in any State shall act in accordance with such directions as the Government of India may issue and shall not, save as otherwise provided in such directions, be subject to the superintendence or control of the State Government or any officer or authority subordinate to the State Government.

(3) Parliament may, by law, specify the powers, functions, privileges and liabilities of the members of any force or any contingent or unit thereof deployed under clause (1) during the period of such deployment.”

Insertion  
of new  
article  
257A.

Assistance  
to States,  
deploy-  
ment of  
armed  
forces or  
other  
forces of  
the Union.

44. In article 311 of the Constitution, in clause (2) —

(a) the words “and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry” shall be omitted;

Amend-  
ment of  
article  
311.

(b) for the words “Provided that this clause shall not apply—”, the following shall be substituted, namely:—

“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 —”.

Amend-  
ment of  
article  
312.

45. In article 312 of the Constitution —

(a) in clause (1) —

(i) for the word and figures “Part XI”, the words and figures “Chapter VI of Part VI or Part XI” shall be substituted;

(ii) after the words “all-India services”, the brackets and words “(including an all-India judicial service)” shall be inserted;

(b) after clause (2), the following clauses shall be inserted, namely:—

“(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.”

46. After Part XIV of the Constitution, the following Part shall be inserted, namely:—

Insertion  
of new  
Part XIV A.

#### PART XIV A

##### TRIBUNALS

323A. (1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

Administrative tribunals.

(2) A law made under clause (1) may —

- (a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;
- (b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;
- (c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

- (d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);
- (e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;
- (f) repeal or amend any order made by the President under clause (3) of article 371D;
- (g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, for the speedy disposal of cases by, and enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Tribunals  
for other  
matters.

323B. (1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

- (2) The matters referred to in clause (1) are the following, namely:—
- (a) levy, assessment, collection and enforcement of any tax;
  - (b) foreign exchange, import and export across customs frontiers;
  - (c) industrial and labour disputes;
  - (d) land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;
  - (e) ceiling on urban property;
  - (f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;
  - (g) production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;
  - (h) offences against laws with respect to any of the matters specified in sub-clauses (a) to (g) and fees in respect of any of those matters;
  - (i) any matter incidental to any of the matters specified in sub-clauses (a) to (h).

- (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 provisions 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.”

47. In article 330 of the Constitution, the following *Explanation* shall be inserted at the end, namely:—

Amend-  
ment of  
article  
330.

*“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 2000 have been published, be construed as a reference to the 1971 census.’.

48. In article 352 of the Constitution —

Amend-  
ment of  
article  
352.

- (a) in clause (1), after the words “make a declaration to that effect”, the following shall be inserted, namely:—

“in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation”;

- (b) In clause (2), in sub-clause (a), after the word “revoked”, the words “or varied” shall be inserted;

- (c) after clause (2), the following clause shall be inserted, namely:—

“(2A) Where a Proclamation issued under clause (1) is varied by a subsequent

Proclamation, the provisions of clause (2) shall, so far as may be, apply in relation to such subsequent Proclamation as they apply in relation to a Proclamation issued under clause (1).”

Amend-  
ment of  
article  
353.

49. To article 353 of the Constitution, the following proviso shall be added, namely:—

“Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India—

(i) The executive power of Union to give directions under clause (a), and

(ii) the powers 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.”.

Amend-  
ment of  
article  
356.

50. In article 356 of the Constitution, in clause (4), for the words “six months”, wherever they occur, the words “one year” shall be substituted.

Amend-  
ment of  
article  
357.

51. (1) In article 357 of the Constitution, for clause (2), the following clause shall be substituted, namely:—

“(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”.

(2) The amendment made by sub-section (1) shall apply also to any law referred to in clause (2) of article 357 of the Constitution which is in force immediately before the coming into force of this section.

52. To article 358 of the Constitution, the following proviso shall be added, namely:—

Amend-  
ment of  
article  
358.

“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.”

53. In article 359 of the Constitution—

Amend-  
ment of  
article  
359.

(a) to clause (1A), the following proviso shall be added, namely:—

“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.”

- (b) to clause (2), the following proviso shall be added, namely:—

“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.”

Amend-  
ment of  
article  
366.

54. In article 366 of the Constitution—

- (a) after clause (4), the following clause shall be inserted, namely:—

“(4A) ‘Central law’ means any law other than a State law but does not include any amendment of this Constitution made under article 368;”

- (b) after clause (26), the following clause shall be inserted, namely:—  
‘(26A) “State law” means—  
(a) a State Act or an Act of the Legislature of a Union territory;  
(b) an Ordinance promulgated by the Governor of a State under article 213 or by the administrator of a Union territory under article 239B.  
(c) any provision with respect to a matter in the State in a Central Act made before the commencement of this Constitution;  
(d) any provision with respect to a matter in the State List or the Concurrent List in a Provincial Act;  
(e) any notification, order, scheme, rule, regulation or bye-law or any other instrument having the force of law made under any Act, Ordinance or provisions referred to in sub-clause (a), sub-clause (b), sub-clause (c) or sub-clause (d);  
(f) any notification, order, scheme, rule, regulation or bye-law or any other instrument having the force of law, not falling under sub-clause (e), and made by a State Government or the administrator of a Union territory or an officer or authority subordinate to such Government or administrator; and  
(g) any other law (including any usage or custom having the force of law) with respect to a matter in the State List.”

55. In article 368 of the Constitution, after clause (3), the following clauses shall be inserted, namely:—

Amend-  
ment of  
article  
368.

“(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.”

Amend-  
ment of  
article  
371F.

56. In article 371F of the Constitution, in clause (c), for the words “five years”, the words “six years” shall be substituted and for the words “four years” in the two places where they occur, the words “five years” shall be substituted.

Amend-  
ment of  
the  
Seventh  
Schedule.

57. In the Seventh Schedule to the Constitution—  
(a) in List I—Union List, after entry 2, the following entry shall be inserted, namely:—

“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.”;

(b) in List II—State List—

(i) in entry 1, for the words “the use of naval, military or air forces or any other armed forces of the Union”, the words “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" shall be substituted;

(ii) for entry 2, the following entry shall be substituted, namely:—

“2. Police (including railway and village police) subject to the provisions of entry 2A of List I”;

(iii) in entry 3, the words “Administration of justice; constitution and organisation of all courts, except the Supreme Court and the High Courts;” shall be omitted;

(iv) entries 11, 19, 20 and 29 shall be omitted;

(v) in entry 55, the words “and advertisement broadcast by radio or television” shall be inserted at the end;

(c) In List III—Concurrent List—

(i) after entry 11, the following entry shall be inserted, namely:—

“11A. Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts.”;

(ii) after entry 17, the following entries shall be inserted, namely:—

“17A. Forests.

17B. Protection of wild animals and birds”;

(iii) after entry 20, the following entry shall be inserted, namely:—

“20A. Population control and family planning.”;

(iv) for entry 25, the following entry shall be substituted, namely:—

“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.”;

(v) after entry 33, the following entry shall be inserted, namely:—

“33A. Weights and measures except establishment of standards.”

Special provisions as to pending petitions under article 226.

58. (1) Notwithstanding anything contained in the Constitution, every petition made under article 226 of the Constitution before the appointed day and pending before any High Court immediately before that day (such petition being referred to in this section as a pending petition) and any interim order (whether by way of injunction or stay or in any other manner) made on, or in any proceedings relating to, such petition before that day shall be dealt with in accordance the provisions of article 226 as substituted by section 38.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), every pending petition before a High Court which would not have been admitted by the High Court under the

provisions of article 226 as substituted by section 38, if such petition had been made after the appointed day, shall abate and any interim order (whether by way of injunction or stay or in any other manner) made on, or in any proceedings relating to, such petition, shall stand vacated:

Provided that nothing contained in this sub-section shall affect the right of the petitioner to seek relief under any other law for the time being in force in respect of the matters to which such petition relates and in computing the period of limitation, if any, for seeking such relief, the period during which the proceedings relating to such petition were pending in the High Court shall be excluded.

- (3) Every interim order (whether by way of injunction or stay or in any other manner) which was made before the appointed day, on, or in any proceedings relating to a pending petition [not being a pending petition which has abated under sub-section (2)], and which is in force on that day, shall, unless before the appointed day copies of such pending petition and of documents in support of the plea for such interim order had been furnished to the party against whom such interim order was made and an opportunity had been given to such party to be heard in the matter, cease to have effect (if not vacated earlier)—
  - (a) on the expiry of a period of one month from the appointed day, if the copies of such pending petition and the documents in support of the plea for the interim order

are not furnished to such party before the expiry of the said period of one month; or

(b) on the expiry of a period of four months from the appointed day, if the copies referred to in clause (a) have been furnished to such party within the period of one month referred to in that clause but such party has not been given an opportunity to be heard in the matter before the expiry of the said period of four months.

(4) Notwithstanding anything contained in sub-section (3), every interim order (whether by way of injunction or stay or in any other manner) which was made before the appointed day, on, or in any proceedings relating to, a pending petition [not being a pending petition which has abated under sub-section (2)], and which is in force on that day, shall, if such order has the effect of delaying any inquiry into a matter of public importance or any investigation or inquiry into an offence punishable with imprisonment or any action for the execution of any work or project of public utility, or the acquisition of any property for such execution, by the Government or any corporation owned or controlled by the government stand vacated.

*Explanation*—In this section, “appointed day” means the date on which section 38 comes into force.

Power of the President to remove difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions

of the Constitution as they stood immediately before the date of the President's assent to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution, as appear to him to be necessary or expedient for the purpose or removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of such assent.

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

### XLIII

#### THE CONSTITUTION (FORTY-THIRD AMENDMENT) ACT, 1977

*An Act further to amend the Constitution of India*

[13th April, 1978]

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Forty-third Amendment) Act, 1977.
2. Article 31D of the Constitution shall be Omission of article 31D.
3. (1) Article 32A of the Constitution shall be Omission of article 32A.  
(2) Any proceedings pending before the Supreme Court under article 32 of the Constitution immediately before the commencement of this Act may be dealt with by the Supreme Court as if the said article

32A had been omitted with effect on and from the 1st day of February, 1977.

Omission  
of article  
131A.

4. (1) Article 131A of the Constitution shall be omitted.  
(2) Notwithstanding anything contained in sub-section (1), where immediately before the commencement of this Act any reference made by a High Court under the said article 131A is pending before the Supreme Court, the Supreme Court may, having regard to—
  - (a) the stage at which the reference is so pending; and
  - (b) the ends of justice,

either deal with the case as if that article had not been omitted or return the case to the High Court for disposal as if that article had been omitted with effect on and from the 1st day of February, 1977.

Omission  
of article  
144A.

5. (1) Article 144A of the Constitution shall be omitted.  
(2) Any case pending before the Supreme Court immediately before the commencement of this Act may be dealt with by the Supreme Court as if the said article 144A had been omitted with effect on and from the 1st day of February, 1977.

Amend-  
ment of  
article  
145.

6. In article 145 of the Constitution—
  - (a) in clause (1), in sub-clause (cc), for the words, figures and letters “articles 131A and 139A”, the words, figures and letter “article 139A” shall be substituted;

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| <p>(b) in clause (2), the words, figures and letter “article 144A and of” shall be omitted;</p> <p>(c) in clause (3), the words, figures and letter “Subject to the provisions of article 144A,” shall be omitted.</p> <p>7. In article 226 of the Constitution in clause (1), the words, figures and letters “but subject to the provisions of article 131A and article 226A” shall be omitted.</p> <p>8. (1) Article 226A of the Constitution shall be omitted.</p> <p>(2) Any proceedings pending before a High Court under article 226 of the Constitution immediately before the commencement of this Act may be dealt with by the High Court as if the said article 226A had been omitted with effect on and from the 1st day of February, 1977.</p> <p>9. In article 228 of the Constitution, in the opening portion, the words, figures and letter “subject to the provisions of article 131A,” shall be omitted.</p> <p>10. (1) Article 228A of the Constitution shall be omitted.</p> <p>(2) Any case pending before a High Court immediately before the commencement of this Act may be dealt with by High Court as if the said article 228A had been omitted with effect on and from the 1st day of February, 1977.</p> <p>11. In article 366 of the Constitution clause (4A) and clause (26A) shall be omitted.</p> | <p>Amendment of article 226.</p> <p>Omission of article 226A.</p> <p>Amendment of article 228.</p> <p>Omission of article 228A.</p> <p>Amendment of article 366.</p> |
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**XLIV****THE CONSTITUTION (FORTY-FOURTH  
AMENDMENT) ACT, 1978***An Act further to amend the Constitution of India**[30th April, 1979]*

BE it enacted by Parliament in the Twenty-ninth  
Year of the Republic of India as follows:—

Short title  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Constitution (Forty-fourth Amendment) Act, 1978.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amend-  
ment of  
article 19.

2. In article 19 of the Constitution—  
 (a) in clause (1)—  
 (i) in sub-clause (e), the word “and” shall be inserted at the end;  
 (ii) sub-clause (f) shall be omitted;  
 (b) in clause (5), for the words, brackets and letter “sub-clauses (d), (e) and (f)”, the words, brackets and letters “sub-clauses (d) and (e)” shall be substituted.

Amend-  
ment of  
article 22.

3. In article 22 of the Constitution,—  
 (a) for clause (4), the following clause shall be substituted, namely:—  
 “(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two months unless an advisory Board

constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention:

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

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

*Explanation*—In this clause, “appropriate High Court means—

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

(b) in clause (7)—

- (i) sub-clause (a) shall be omitted;
- (ii) sub-clause (b) shall be re-lettered as sub-clause (a); and
- (iii) sub-clause (c) shall be re-lettered as sub-clause (b) and in the sub-clause as so re-lettered, for the words, brackets, letter and figure “sub-clause (a) of clause (4)”, the word, brackets and figure “clause (4)” shall be substituted.

Amend-  
ment of  
article 30.

4. In article 30 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(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”.

Omission  
of sub-  
heading  
after  
article 30.

5. The sub-heading “*Right to Property*” occurring after article 30 of the Constitution shall be omitted.

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|---|--|
| <p>6. Article 31 of the Constitution shall be omitted.</p> <p>7. In article 31A of the Constitution, in clause (1), for the words and figures “article 14, article 19 or article 31”, the words and figures “article 14 or article 19” shall be substituted.</p> <p>8. In article 31C of the Constitution, for the words and figures “article 14, article 19 or article 31”, the words and figures “article 14 or article 19” shall be substituted.</p> <p>9. Article 38 of the Constitution shall be renumbered as clause (1) thereof and after the clause so renumbered, the following clause shall be inserted, namely:—</p> <p>“(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 groups of people residing in different areas or engaged in different vocations.”</p> <p>10. For article 71 of the Constitution, the following article shall be substituted, namely:—</p> <p>“71 (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.</p> <p>(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</p> | <p>Omission of article 31.</p> <p>Amendment of article 31A.</p> <p>Amendment of article 31C.</p> <p>Amendment of article 38.</p> <p>Substitution of new article for article 71.</p> <p>Matters relating to, or connected with the election of a President or Vice-President.</p> |
|---|--|

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 elected him”.

Amend-  
ment of  
article 74.

11. In article 74 of the Constitution in clause (1), the following proviso shall be inserted at the end, namely:—

“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”.

Amend-  
ment of  
article 77.

12. In article 77 of the Constitution, clause (4) shall be omitted.

Amend-  
ment of  
article 83.

13. (1) In article 83 of the Constitution in clause (2) for the words “six years” in both the places where they occur, the words “five years” shall be substituted.

(2) The amendments made by sub-clause (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

14. For article 103 of the Constitution, the following article shall be substituted, namely:—
- Substitution of new article for article 103.
- “103. (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.
- (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”.
15. In article 105 of the Constitution, in clause (3), for the words “shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution”, the words, figures and brackets “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” shall be substituted.
16. In article 123 of the Constitution, clause (4) shall be omitted.
17. In article 132 of the Constitution—
- (a) in clause (1), for the words “if the High Court certifies”, the words, figures and letter “if the High Court certifies under article 134A” shall be substituted;
- Decision on questions as to disqualifications of members.
- Amendment of article 105.
- Amendment of article 123.
- Amendment of article 132.

Amend-  
ment of  
article  
133.

Amend-  
ment of  
article  
134.

Insertion  
of new  
article  
134A.

Certificate  
for appeal  
to the  
Supreme  
Court.

- (b) clause (2) shall be omitted;
- (c) in clause (3), the words, “or such leave is granted”, and the words “and with the leave of the Supreme Court, on any other ground” shall be omitted.

18. In article 133 of the Constitution, in clause (1), for the words “if the High Court certifies—”, the words, figures and letter “if the High Court certifies under article 134A—” shall be substituted.

19. In article 134 of the Constitution, in sub-clause (c) of clause (1), for the word “certifies”, the words, figures and letter “certifies under article 134A” shall be substituted.

20. After article 134 of the Constitution, the following article shall be inserted, namely:—

“134A. Every High Court, passing or making a judgement, 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 judgement, 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".

21. In article 139A of the Constitution, for clause (1) the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
139A.

"(1) Where case involving the same or substantively 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 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 judgement 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 judgement".

22. In article 150 of the Constitution, for the words "after consultation with", the words "on the advice of" shall be substituted.

Amend-  
ment of  
article  
150.

23. In article 166 of the Constitution, clause (4) shall be omitted.

Amend-  
ment of  
article  
166.

Amend-  
ment of  
article  
172.

24. (1) In article 172 of the Constitution, in clause (1) for the words “six years” in both the places where they occur, the words “five years” shall be substituted.
- (2) The amendments made by sub-section (1) to clause (1) of article 172—
- (a) shall not apply to any existing State Legislative Assembly the period of existence whereof as computed from the date appointed for its first meeting to the date of coming into force of this section (both dates inclusive) is more than four years and eight months but every such Assembly shall, unless sooner dissolved, stand dissolved on the expiry of—
- (i) a period of four months from the date of coming into force of this section; or
- (ii) a period of six years from the date appointed for its first meeting.
- whichever period expires earlier;
- (b) shall apply to every other existing State Legislative Assembly without prejudice to the power of Parliament with respect to the extension of duration of such Assembly under the proviso to the said clause (1).
- Explanation 1*—In its application to the Legislative Assembly of the State of Sikkim referred to in clause (b) of article 371F of the Constitution, this sub-section shall have effect as if—
- (i) the date appointed for the first meeting of that Assembly were the 26th day of April, 1975; and

- (ii) the references in clause (a) of this sub-section to “four years and eight months” and “six years” were references to “three years and eight months” and “five years” respectively.

*Explanation II*—In this sub-section, “existing State Legislative Assembly” means the Legislative Assembly of a State in existence on the date of coming into force of this section.

25. For article 192 of the Constitution, the following article shall be substituted, namely:—

Substitution  
of new  
article for  
article 192.

Decision  
on ques-  
tions as to  
disqualifi-  
cation of  
members.

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

(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”.

26. In article 194 of the Constitution, in clause (3), for the words “shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution”, the words, figures and brackets “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” shall be substituted.

Amend-  
ment of  
article  
194.

Amend-  
ment of  
article  
213.

Amend-  
ment of  
article  
217.

Amend-  
ment of  
article  
225.

27. In article 213 of the Constitution, clause (4) shall be omitted.

28. In article 217 of the Constitution, in clause (2)—

(a) in sub-clause (b), the word “or” occurring at the end shall be omitted;

(b) sub-clause (c) shall be omitted;

(c) In the *Explanation*, clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

“(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;”.

29. In article 225 of the Constitution, the following proviso shall be inserted at the end, namely:—

“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”.

## 30. In article 226 of the Constitution—

Amend-  
ment of  
article  
226.

(a) in clause (1), for the portion beginning with the words “writs in the nature of *habeas corpus, mandamus, prohibition, quo warranto* and *certiorari*, or any of them” and ending with the words “such illegality has resulted in substantial failure of justice”, the following shall be substituted, namely:—

“writs in the nature of *habeas corpus, mandamus, prohibition, quo warranto* and *certiorari*, or any of them, for the enforcement of any of the right conferred by Part III and for any other purpose.”;

(b) for clauses (3), (4), (5) and (6), the following clause shall be substituted, namely:—

“(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”;

(c) clause (7) shall be renumbered as clause (4).

Amend-  
ment of  
article  
227.

31. In article 227 of the Constitution—

(a) for clause (1), the following clause shall be substituted, namely:—

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

(b) clause (5) shall be omitted.

Amend-  
ment of  
article  
239B.

32. In article 239B of the Constitution, clause (4) shall be omitted.

Omission  
of article  
257A.

33. Article 257A of the Constitution shall be omitted.

Insertion  
of new  
Chapter  
IV in Part  
XII

Persons  
not to be  
deprived  
of prop-  
erty save  
by  
authority  
of law.

34. In Part XII of the Constitution, after Chapter III, the following Chapter shall be inserted, namely:—

“CHAPTER IV—RIGHT TO PROPERTY”

“300A. No person shall be deprived of his property save by authority of law”.

35. In article 329 of the Constitution, in the opening portion, the words, figures and letter “but subject to the provisions of article 329A” shall be omitted. Amend-  
ment of  
article  
329.
36. Article 329A of the Constitution shall be omitted. Omission  
of article  
329A.
37. In article 352 of the Constitution—  
Amend-  
ment of  
article  
352.
- (a) in clause (1)—  
(i) for the words “internal disturbance”, the words “armed rebellion” shall be substituted;  
(ii) the following *Explanation* shall be inserted at the end, namely:  
*“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”;*  
(b) for clauses (2), (2A) and (3), the following clause shall be substituted, namely:  
“(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 resolution 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 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 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 purpose 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”;
- (c) clause (4) shall be renumbered as clause (9) and in the clause as so renumbered, for the words “internal

disturbance" in both the places where they occur, the words "armed rebellion" shall be substituted;

(d) clause (5) shall be omitted.

38. In article 356 of the Constitution—

(a) in clause (4)—

(i) for the words, brackets and figure "one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)", the words "six months from the date of issue of the Proclamation" shall be substituted;

(ii) in the first proviso, for the words "one year" the words "six months" shall be substituted;

(iii) in the second proviso, for the words "one year" the words "six months" shall be substituted;

(b) for clause (5), the following clause shall be substituted, namely:—

"(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

Amend-  
ment of  
article  
356.

Amend-  
ment of  
article  
358.

(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”.

39. Article 358 of the Constitution shall be renumbered as clause (1) of that article, and—

(a) in clause (1) as so renumbered—

(i) in the opening portion, for the words “While a Proclamation of Emergency is in operation”, the words “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” shall be substituted;

(ii) in the proviso, for the words “where a Proclamation of Emergency”, the words “where such Proclamation of Emergency” shall be substituted;

(b) after clause (1) as so renumbered, the following clause shall be inserted, namely:—

“(2) Nothing in clause (1) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the 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.”

## 40. In article 359 of the Constitution—

Amend-  
ment of  
article  
359.

- (a) in clauses (1) and (1A), for the words and figures “the rights conferred by Part III”, the words, figures and brackets “the rights conferred by Part III (except articles 20 and 21)” shall be substituted;
- (b) after clause (1A), the following clause shall be inserted, namely:—  
“(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 recital.”

## 41. In article 360 of the Constitution—

Amend-  
ment of  
article  
360.

- (a) for clause (2), the following clause shall be substituted, namely:—  
“(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;
  - (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,”

(b) clause (5) shall be omitted.

Insertion  
of new  
article  
361A.

Protection  
of publica-  
tion of  
proceed-  
ings of  
Parliament  
and State  
Legisla-  
tures.

42. After article 361 of the Constitution, the following article shall be inserted, namely:—

“361A (1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the Legislative Assembly, or as the case may be, either House of the Legislature of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

*Explanation*—In this article, “newspaper” includes a new agency report containing material for publication in a newspaper.”

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|---|--|
| 43. In article 371F of the Constitution, in clause (c) for the words “six years”, the words “five years” shall be substituted, and for the words “five years” in both the places where they occur, the words “four years” shall be substituted. | Amend-<br>ment of<br>article<br>371F.  |
| 44. In the Ninth Schedule to the Constitution, entries 87, 92 and 130 shall be omitted.   | Amend-<br>ment of<br>the Ninth<br>Schedule.  |
| 45. In the Constitution (Forty-second Amendment) Act, 1976, sections 18, 19, 21, 22, 31, 32, 34, 35, 58 and 59 shall be omitted.  | Amend-<br>ment of<br>Constitu-<br>tion<br>(Forty-<br>second<br>Amend-<br>ment) Act,<br>1976. |

## XLV

### **THE CONSTITUTION (FORTY-FIFTH AMENDMENT) ACT, 1980**

*An Act further to amend the Constitution of India.*

*[14th April, 1980]*

BE it enacted by Parliament in the Thirtieth year of the Republic of India as follows:—

- |   |  |
|---|--|
| 1. (1) This Act may be called the Constitution (Forty-fifth Amendment) Act, 1980. | Short title<br>and<br>commen-<br>cement. |
|---|--|

Amend-  
ment of  
article  
334.

(2) It shall be deemed to have come into force on the 25<sup>th</sup> day of January, 1980.

2. In article 334 of the Constitution, for the words “thirty years”, the words “forty years” shall be substituted.

## XLVI

### **THE CONSTITUTION (FORTY-SIXTH AMENDMENT) ACT, 1982**

*An Act further to amend the Constitution of India.*

*[2nd February, 1983]*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Forty-sixth Amendment) Act, 1982.

Amend-  
ment of  
article  
269.

2. In article 269 of the Constitution,

(a) in clause (1), after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) 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”;

(b) in clause (3), for the words, “sale or purchase of goods”, the words “sale or purchase of, or consignment of goods” shall be substituted.

Amend-  
ment of  
article  
286.

3. In article 286 of the Constitution, for clause (3), the following clause shall be substituted, namely:—

“(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,—

- (a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or
- (b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clauses (b), (c) or sub-clause (d) of clause (29A) of article 366;
- be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.”
4. In article 366 of the Constitution, after clause (29), the following clause shall be inserted, namely:—
- Amend-  
ment of  
article  
366.
- “(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 to property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;
- (d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

- 
- (e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
  - (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.”

Amend-  
ment of  
Seventh  
Schedule.

- 5. In the Seventh Schedule to the Constitution, in List 1—Union List, after entry 92A, the following entry shall be inserted, namely:—  
“92B. 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.”
- 6. (1) For the purpose of every provision of the Constitution in which the expression “tax on the sale or purchase of goods” occurs, and for the purposes of any law passed or made, or purporting to have been passed or made, before the commencement of this Act, in pursuance of any such Provision—  
(a) the said expressions shall be deemed to include, and shall be deemed always to

Validation  
and  
exemption.

have included, a tax (hereafter in this section referred to as the aforesaid 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) for cash, deferred payment or other valuable consideration; and

- (b) every transaction by way of supply of the nature referred to in clause (a) made before such commencement shall be deemed to be, and shall be deemed always to have been, a transaction by way of sale, with respect to which the person making such supply is the seller and the person to whom such supply is made, is the purchaser,

and notwithstanding any judgement, decree or order of any court, tribunal or authority, no law which was passed or made before such commencement and which imposed or authorised the imposition of or purported to impose or authorise the imposition of, the aforesaid tax shall be deemed to be invalid or ever to have been invalid on the ground merely that the Legislature or other authority passing or making such law did not have competence to pass or make such law, and accordingly:—

- (i) all the aforesaid taxes levied or collected or purporting to have been levied or collected under any such law before the commencement of this Act shall be deemed always to have been validly levied or collected in accordance with law;

- (ii) no suit or other proceeding shall be maintained or continued in any court or before any tribunal or authority for the refund of and no enforcement shall be made by any court, tribunal or authority of any decree or order directing the refund of, any such aforesaid tax which has been collected;
- (iii) recoveries shall be made in accordance with the provisions of such law of all amounts which would have been collected thereunder as such aforesaid tax if this section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (1), any supply of the nature referred to therein shall be exempt from the aforesaid tax—

- (a) where such supply has been made, by any restaurant or eating house (by whatever name called), at any time on or after the 7<sup>th</sup> day of September, 1978 and before the commencement of this Act and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time; or
- (b) where such supply, not being any such supply by any restaurant or eating house (by whatever name called), has been made at any time on or after the 4<sup>th</sup> day of January, 1972 and before the commencement of this Act and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time:

Provided that the burden of proving that the aforesaid tax was not collected on any supply of the nature referred to in clause (a) or, as the case may be clause (b), shall be on the person claiming the exemption under this sub-section.

(3) For the removal of doubts it is hereby declared that—

(a) nothing in sub-section (1) shall be construed as preventing any person—

(i) from questioning in accordance with the provisions of any law referred to in that sub-section, the assessment, reassessment, levy or collection of the aforesaid tax, or

(ii) from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under any such law; and

(b) no act or omission on the part of any person, before the commencement of this Act, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

## XLVII

### THE CONSTITUTION (FORTY-SEVENTH AMENDMENT) ACT, 1984

*An Act further to amend the Constitution of India.*

[26th August, 1984]

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Forty-seventh Amendment) Act, 1984.

Amend-  
ment of  
the Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 188 and before the Explanation, the following entries shall be inserted, namely:—
  - “189. The Assam (Temporarily Settled Areas) Tenancy Act, (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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- 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).”.

## XLVIII

### **THE CONSTITUTION (FORTY-EIGHTH AMENDMENT) ACT, 1984**

*An Act further to amend the Constitution of India*

*[26th August, 1984]*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution Short title. (Forty-eighth Amendment) Act, 1984.
- 2. In article 356 of the Constitution, in clause (5), the following proviso shall be inserted at the end, namely:—

Amend-  
ment of  
article  
356.

“Provided that in the case of the Proclamation issued under clause (1) on the 6th day of October, 1983 with respect to the State of Punjab, the reference in this clause to “any

period beyond the expiration of one year” shall be construed as a reference to “any period beyond the expiration of two years”.

## XLIX

### **THE CONSTITUTION (FORTY-NINTH AMENDMENT) ACT, 1984**

*An Act further to amend the Constitution of India*

*[11th September, 1984]*

BE it enacted by Parliament in the Thirty-Fifth Year of the Republic of India as follows:

Short title and commencement.

1. (1) This Act may be called the Constitution (Forty-ninth Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 244.

2. In article 244 of the Constitution in clauses (1) and (2), for the word “and Meghalaya”, the words, “Meghalaya and Tripura” shall be substituted.

Amendment of the Fifth Schedule.

3. In Fifth Schedule to the Constitution, in paragraph 1, for the words “and Meghalaya”, the words “Meghalaya and Tripura” shall be substituted.

Amendment of the Sixth Schedule.

4. In the Sixth Schedule to the Constitution—

(a) in the heading, for the words “and Meghalaya”, the words, “Meghalaya and Tripura” shall be substituted;

- (b) in sub-paragraph (1) of paragraph 1, for the words and figures “Parts I and II”, the words, figures and letter “Parts I, II and IIA” shall be substituted;
- (c) after paragraph 12A, the following paragraph shall be inserted, namely:—

**“12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and autonomous regions in the State of Tripura**—Notwithstanding anything in the Constitution—

(a) if any provision of a law made by the District or a Regional Council in the State of Tripura 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 the 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 Tripura 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 Tripura, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Tripura shall prevail;

(b) 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.”

(d) in paragraph 17, after the words “or Meghalaya”, at both the places where they occur, the words “or Tripura” shall be inserted;

(e) in paragraph 20—

(i) in sub-paragraph (1)—

(A) after the words and figures “in Parts I, II”, the figures and letter, “IIA” shall be inserted;

(B) after the words “the State of Meghalaya” the words, “the State of Tripura” shall be inserted;

(ii) in sub-paragraph (2), for the words “Any reference in the table below”, the words and figures “Any reference in Part I, Part II or Part III of the table below” shall be substituted;

(iii) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(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.”

(f) in the Table, after Part II and the entries relating thereto, the following Part shall be inserted, namely:—

“PART IIA  
Tripura Tribal Areas District”.

**L**

**THE CONSTITUTION (FIFTIETH AMENDMENT)  
ACT, 1984**

*An Act further to amend the Constitution of India*

*[11th September, 1984]*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fiftieth Amendment) Act, 1984. Short title.

2. For article 33 of the Constitution, the following article shall be substituted, namely:— Substitution of article 33.

“33. Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,— Power of Parliament to modify the rights conferred by this Part in their application to Forces etc.

(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) persons 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.”.

## LI

### THE CONSTITUTION (FIFTY-FIRST AMENDMENT) ACT, 1984

*An Act further to amend the Constitution of India*

*[29th April, 1985]*

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Fifty-first Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
330.

2. (1) In article 330 of the Constitution, in clause (1), for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and”.

- (2) The amendment made to article 330 of the Constitution by sub-section (1) shall not affect any representation in the House of the People until the dissolution of the House of the People existing at the commencement of this Act.
3. (1) In article 332 of the Constitution, in clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam, in Nagaland and in Meghalaya”, the words “except the Scheduled Tribes in the autonomous districts of Assam” shall be substituted.
- (2) The amendment made to article 332 of the Constitution by sub-section (1) shall not affect any representation in the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya until the dissolution of the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya existing at the commencement of this Act.

Amend-  
ment of  
article  
332.

## LII

### THE CONSTITUTION (FIFTY-SECOND AMENDMENT) ACT, 1985

*An Act further to amend the Constitution of India*

[15th February, 1985]

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Fifty-second Amendment) Act, 1985.

Short title  
and  
commen-  
cement.

Amend-  
ment of  
article  
101.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 101 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures “clause (1) of article 102” the words, brackets and figures “clause (1) or clause (2) of article 102” shall be substituted.

Amend-  
ment of  
article  
102.

3. In article 102 of the Constitution—

(a) for the brackets, figure and words “(2) For the purposes of this article”, the words “Explanation—For the purposes of this clause” shall be substituted;

(b) the following clause shall be inserted at the end, namely:—

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

Amend-  
ment of  
article  
190.

4. In article 190 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures “clause (1) of article 191” the words, brackets and figures, “clause (1) or clause (2) of article 191” shall be substituted.

Amend-  
ment of  
article  
191.

5. In article 191 of the Constitution—

(a) for the brackets, figure and words “(2) For the purposes of this article”, the words “Explanation— For the purposes of this clause” shall be substituted;

(b) the following clause shall be inserted at the end, namely:—

“(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”.

6. After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely:—
- Addition  
of Tenth  
Schedule.

“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 paragraph 3 or, as the case may be, 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 subparagraph (1) of paragraph 2;
- (d) “paragraph” means a paragraph of this Schedule.

2. **Disqualification on ground of defection.**—

- (1) Subject to the provisions of paragraphs 3, 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—
    - (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 a 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 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, deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

3. **Disqualification on ground of defection not to apply in case of split**—Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party—
  - (a) he shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground—
    - (i) that he has voluntarily given up his membership of his original political party; or
    - (ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and
  - (b) from the time of such split, such faction 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 paragraph.
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,

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 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 continued to hold such office thereafter, rejoins 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 subparagraph (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.

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- (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 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.

### LIII

### **THE CONSTITUTION (FIFTY-THIRD AMENDMENT) ACT, 1986**

*An Act further to amend the Constitution of India*

*[14th August, 1986]*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Constitution (Fifty-third Amendment) Act, 1986.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. After article 371F of the Constitution, the following article shall be inserted, namely:—
- Insertion  
of new  
article  
371 G.
- “371G. Notwithstanding anything in this Constitution,
- Special  
provision  
with  
respect to  
the State  
of  
Mizoram.
- (a) no Act of Parliament in respect of—
- (i) religious or social practices of the Mizos,
- (ii) Mizo customary law and procedure,
- (iii) administration of civil and criminal justice involving decisions according to Mizo customary law,
- (iv) ownership and transfer of land,
- shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:
- Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;
- (b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.”

**LIV****THE CONSTITUTION (FIFTY-FOURTH AMENDMENT)  
ACT, 1986***An Act further to amend the Constitution of India**[14th March, 1987]*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Fifty-fourth Amendment) Act, 1986.  
 (2) It shall be deemed to have come into force on the 1st day of April, 1986.

Amendment of article 125.

2. In article 125 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(1) There shall be paid to the Judge 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.”

Amendment of article 221.

3. In article 221 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

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

4. In the Second Schedule to the Constitution, in Part D—
- (a) in sub-paragraph (1) of paragraph 9—
- (i) for the figures and word “5,000 rupees”, the figures and word “10,000 rupees” shall be substituted;
  - (ii) for the figures and word “4,000 rupees”, the figures and word “9,000 rupees” shall be substituted;
- (b) in sub-paragraph (1) of paragraph 10—
- (i) for the figures and word “4,000 rupees” the figures and word “9,000 rupees” shall be substituted;
  - (ii) for the figures and word “3,500 rupees”, the figures and word “8,000 rupees” shall be substituted;

## LV

### **THE CONSTITUTION (FIFTY-FIFTH AMENDMENT) ACT, 1986**

*An Act further to amend the Constitution of India*

*[23rd December, 1986]*

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Fifty-fifth Amendment) Act, 1986.

Short title  
and  
commen-  
cement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
371H.

Special  
provision  
with  
respect to  
the State of  
Arunachal  
Pradesh.

2. After article 371G of the Constitution, the following article shall be inserted, namely:—

“371H. 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 judgement as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgement, 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 judgement:

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”.

**LVI**

**THE CONSTITUTION (FIFTY-SIXTH AMENDMENT)  
ACT, 1987**

*An Act further to amend the Constitution of India*

*[23rd May, 1987]*

BE it enacted by Parliament in the Thirty-eighth  
Year of the Republic of India as follows:—

- |  |                                    |
|--|------------------------------------|
| 1. (1) This Act may be called the Constitution (Fifty-sixth Amendment) Act, 1987.<br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.  | Short title and commen-<br>cement. |
| 2. After article 371H of the Constitution, the following article shall be inserted, namely:—<br><b>“371-I. Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members”.</b> | Insertion of new article 371-I.    |

Special provision with respect to the State of Goa.

**LVII**

**THE CONSTITUTION (FIFTY-SEVENTH  
AMENDMENT) ACT, 1987**

*An Act further to amend the Constitution of India*

*[15th September, 1987]*

BE it enacted by Parliament in the Thirty-eighth  
Year of the Republic of India as follows:—

- |   |                                    |
|---|------------------------------------|
| 1. (1) This Act may be called the Constitution (Fifty-seventh Amendment) Act, 1987. | Short title and commen-<br>cement. |
|---|------------------------------------|

Amend-  
ment of  
article  
332.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. (1) In article 332 of the Constitution after clause (3) the following clause shall be inserted, namely:—
- “(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 2000, 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—
- (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, 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.”.
- (2) The amendment made to article 332 of the Constitution by sub-section (1) shall not affect any representation in the Legislative Assembly of the State of Arunachal Pradesh or the Legislative Assembly of the State of Meghalaya or the Legislative Assembly of

the State of Mizoram or the Legislative Assembly of the State of Nagaland until the dissolution of the Legislative Assembly of the State of Arunachal Pradesh or the Legislative Assembly of the State of Meghalaya or the Legislative Assembly of the State of Mizoram or the Legislative Assembly of the State of Nagaland existing at the commencement of this Act.

## LVIII

### **THE CONSTITUTION (FIFTY-EIGHTH AMENDMENT) ACT, 1987**

*An Act further to amend the Constitution of India*

*[9th December, 1987]*

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

- |  |   |
|--|---|
| <p>1. This Act may be called the Constitution (Fifty-eighth Amendment) Act, 1987.</p> <p>2. In Part XXII of the Constitution, in the heading, after the word “COMMENCEMENT”, the words “AUTHORITATIVE TEXT IN HINDI” shall be inserted.</p> <p>3. After article 394 of the Constitution, the following article shall be inserted, namely:—</p> | <p>Short title.<br/>Amendment of<br/>the<br/>heading of<br/>Part XXII.<br/><br/>Insertion<br/>of new<br/>article<br/>394A.</p> <p>Authorita-<br/>tive text<br/>in the<br/>Hindi<br/>language.</p> |
| <p>“394A. (1) The President shall cause to be published under his authority,—</p> <p>(a) the translation of this Constitution in the Hindi language, signed by the members of the Constituent Assembly,</p>  |   |

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 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.”

## LIX

### THE CONSTITUTION (FIFTY-NINTH AMENDMENT) ACT, 1988

*An Act further to amend the Constitution of India*

*[30th March, 1988]*

BE it enacted by Parliament in the Thirty-ninth  
Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Constitution  
(Fifty-ninth Amendment) Act, 1988.

2. In article 356 of the Constitution, in clause (5), for the proviso, the following proviso shall be substituted, namely:—

Amend-  
ment of  
article  
356.

“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”.

3. (1) After article 359 of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
359A.

“359A. Notwithstanding anything in this Constitution, this Part shall, in relation to the State of Punjab, be subject to the following modifications, namely:—

Application  
of this Part  
to the State  
of Punjab.

(a) in article 352—

(1) in clause (1)—

(A) for the opening portion, the following shall be substituted, namely:—

“If the President is satisfied that a grave emergency exists whereby—

(a) the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion; or

(b) The integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab, he may, by proclamation, make a declaration to that effect in respect of the whole of Punjab or of such part of the territory thereof as may be specified in the Proclamation.”;

(B) in the *Explanation*—

(1) after the words “armed rebellion”, the words “or that the integrity of India is

threatened by internal disturbance in the whole or any part of the territory of Punjab”, shall be inserted;

(2) after the words “or rebellion”, the words “or disturbance” shall be inserted;

(ii) in clause (9), after the words “armed rebellion”, at both the places where they occur, the words “or internal disturbance” shall be inserted;

(b) in article 358, in clause (1), after the words “or by external aggression”, the words “or by armed rebellion, or that the integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab,” shall be inserted;

(c) in article 359, for the words and figures “articles 20 and 21”, at both the places where they occur, the word and figures “article 20” shall be substituted”.

(2) The amendment made to the Constitution by sub-section (1) shall cease to operate on the expiry of a period of two years from the commencement of this Act, except as respects things done or omitted to be done before such cesser.

## LX

### **THE CONSTITUTION (SIXTIETH AMENDMENT) ACT, 1988**

*An Act further to amend the Constitution of India*

*[20th December, 1988]*

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short title. 1. The Act may be called the Constitution (Sixtieth Amendment) Act, 1988.

2. In article 276 of the Constitution, in clause (2)—
- (a) for the words “two hundred and fifty rupees”, the words “two thousand and five hundred rupees” shall be substituted;
- (b) the proviso shall be omitted.

Amend-  
ment of  
article  
276.

## LXI

### THE CONSTITUTION (SIXTY-FIRST AMENDMENT) ACT, 1988

*An Act further to amend the Constitution of India*

[28th March, 1989]

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Sixty-first Amendment) Act, 1988.
2. In article 326 of the Constitution, for the words “twenty-one years”, the words “eighteen years” shall be substituted.

Amend-  
ment of  
article  
326.

The above Bill has been passed by the Houses of Parliament in accordance with the provisions of article 368 of the Constitution and has also been ratified by the Legislature of not less than one-half of the States by resolutions to that effect as required under the proviso to clause (2) of the said article.

## LXII

### THE CONSTITUTION (SIXTY-SECOND AMENDMENT) ACT, 1989

*An Act further to amend the Constitution of India*

[25th January, 1990]

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Sixty-second Amendment) Act, 1989.

Short title  
and  
commen-  
cement.

(2) It shall be deemed to have come into force on the date on which the Bill for this Act is introduced in the Council of States.

Amend-  
ment of  
article  
334.

2. In article 334 of the Constitution, for the words “forty years”, the words “fifty years” shall be substituted.

### LXIII

#### THE CONSTITUTION (SIXTY-THIRD AMENDMENT) ACT, 1989

*An Act further to amend the Constitution of India*

[6th January, 1990]

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- |   |  |
|---|--|
| <p>1. (1) This Act may be called the Constitution (Sixty-third Amendment) Act, 1989.</p> <p>(2) It shall come into force with immediate effect.</p> <p>2. In article 356 of the Constitution, in clause (5), the proviso shall be omitted.</p> <p>3. Article 359A of the Constitution shall be omitted.</p> | <p>Short title and commen-<br/>cement.</p> <p>Amendment of article 356.</p> <p>Omission of article 359A.</p> |
|---|--|

### LXIV

#### THE CONSTITUTION (SIXTY-FOURTH AMENDMENT) ACT, 1990

*An Act further to amend the Constitution of India*

[16th April, 1990]

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- |                     |   |
|---------------------|---|
| <p>Short title.</p> | <p>1. (i) This Act may be called the Constitution (Sixty-fourth Amendment) Act, 1990.</p> |
|---------------------|---|

## 2. In article 356 of the Constitution—

(a) in clause (4), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in the case of the Proclamation issued under clause (1) on the 11<sup>th</sup> 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 “three years and six months”.

(b) in clause (5), the following proviso shall be inserted at the end, namely:—

“Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11<sup>th</sup> day of May, 1987 with respect to the State of Punjab.”

Amend-  
ment of  
article  
356.

**LXV**

**THE CONSTITUTION (SIXTY-FIFTH AMENDMENT)  
ACT, 1990**

*An Act further to amend the Constitution of India*

[7th June, 1990]

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1990. Short title and commen-  
cement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## 2. In article 338 of the Constitution—

Amend-  
ment of  
article  
338.

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“National Commission for Scheduled Castes and Scheduled Tribes.”

(b) for clauses (1) and (2), the following clauses shall be substituted, namely:—

“(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five 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 and 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 Castes and Scheduled Tribes;
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and 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 Castes and Scheduled Tribes; and
  - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and 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 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 and Scheduled Tribes.”;
- (c) existing clause (3) shall be renumbered as clause (10).

## LXVI

### **THE CONSTITUTION (SIXTY-SIXTH AMENDMENT) ACT, 1990**

*An Act further to amend the Constitution of India*

[7th June, 1990]

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Sixty-sixth Amendment) Act, 1990.

2. In the Ninth Schedule to the Constitution, Amend-  
after entry 202 and before the Explanation, ment of  
the following entries shall be inserted,  
namely:— the Ninth  
Schedule.

“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 Laws 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, 1985 (Bihar Act 8 of 1985).
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 4 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).
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 Land 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 of 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)."

**LXVII****THE CONSTITUTION (SIXTY-SEVENTH AMENDMENT) ACT, 1990***An Act further to amend the Constitution of India**[4th October, 1990]*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Sixty-seventh Amendment) Act, 1990.
2. In article 356 of the Constitution, in clause (4), Amend-  
in the third proviso, for the words “three years  
and six months”, the words “four years” shall  
be substituted.  
ment of  
article  
356.

**LXVIII****THE CONSTITUTION (SIXTY-EIGHTH AMENDMENT) ACT, 1991***An Act further to amend the Constitution of India**[12th March, 1991]*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Sixty-eighth Amendment) Act, 1991.
2. In article 356 of the Constitution, in clause (4), Amend-  
in the third proviso, for the words “four  
years”, the words “five years” shall be  
substituted.  
ment of  
article  
356.

**LXIX****THE CONSTITUTION (SIXTY-NINTH AMENDMENT)  
ACT, 1991***An Act further to amend the Constitution of India**[21st December, 1991]*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Sixty-ninth Amendment) Act, 1991.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion  
of new  
articles  
239AA  
and  
239AB.

2. After article 239A of the Constitution, the following articles shall be inserted, namely:—

“239AA. (1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2) (a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to “appropriate Legislature” shall be deemed to be a reference to Parliament.

(3) (a) Subject to the provisions of the 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, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than made by the Legislative Assembly, then, in either case, the law made by Parliament, or as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that, if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that, nothing in this sub-clause shall prevent Parliament from enacting at any time, any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten per cent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for

decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and the 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.

(7) 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.

(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 Pondicherry, the administrator and its Legislature, respectively; and any reference in that article to “clause (1) of article 239A” shall be deemed to be a reference to this article or article 239AB, as the case may be.

Provision  
in case of  
failure of  
Constitu-  
tional  
machinery.

239AB. If the President, on receipt of a report from the Lieutenant Governor or otherwise, is satisfied—

(a) that a situation has arisen in which the administration of the National Capital

Territory cannot be carried on in accordance with the provisions of article 239AA or of any law made in pursuance of that article; or

(b) that for the proper administration of the National Capital Territory it is necessary or expedient so to do,

the President may by order suspend the operation of any provision of article 239AA or of all or any of the provisions of any law made in pursuance of that article for such period and subject to such conditions 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.”

## LXX

### **THE CONSTITUTION (SEVENTIETH AMENDMENT) ACT, 1992**

*An Act further to amend the Constitution of India*

[12th August, 1992]

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commen-  
cement.

1. (1) This Act may be called the Constitution (Seventieth Amendment) Act, 1992.  
 (2) Section 3 of this Act shall be deemed to have come into force on the 21<sup>st</sup> day of December, 1991 and section 2 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 54 of the Constitution, the following *Explanation* shall be inserted at the end, namely:—

*“Explanation—In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of Pondicherry.”*

3. In article 239AA of the Constitution—

(i) in clause (7), for the brackets and figure “(7)”, the brackets, figure and letter “(7)(a)” shall be substituted;

(ii) in clause (7) as so amended, the following sub-clause shall be inserted, namely:—

“(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.”

## LXXI

### THE CONSTITUTION (SEVENTY-FIRST AMENDMENT) ACT, 1992

*An Act further to amend the Constitution of India*

[31st August, 1992]

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Seventy-first Amendment) Act, 1992.

Amend-  
ment of  
Eighth  
Schedule.

2. In the Eighth Schedule to the Constitution—
  - (a) existing entry 7 shall be re-numbered as entry 8, and before entry 8 as so re-numbered, the entry “7, Konkani” shall be inserted;
  - (b) existing entry 8 shall be re-numbered as entry 10, and before entry 10 as so renumbered, the entry “9, Manipuri.” shall be inserted;
  - (c) existing entries 9 to 15 shall be renumbered as entries 12 to 18 respectively, and before entry 12 as so re-numbered, the entry “11, Nepal.” shall be inserted.

## LXXII

### **THE CONSTITUTION (SEVENTY-SECOND AMENDMENT) ACT, 1992**

*An Act further to amend the Constitution of India*

[4th December, 1992]

BE it enacted by Parliament in the Forty-Second  
Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (i) This Act may be called the Constitution (Seventy-second Amendment) Act, 1992.  
 (ii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. (1) In article 332 of the Constitution, after clause (3A), the following clause shall be inserted, namely:—  
 “3(B) Notwithstanding anything contained in clause (3), until the re-adjustment, under

Amend-  
ment of  
article  
332.

article 170, takes effect on the basis of the first census after the year 2000, 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.”

3. The Amendment made to article 332 of the Constitution by sub-section (i) shall not affect any representation in the Legislative Assembly of the State of Tripura until the dissolution of the Legislative Assembly existing at the commencement of this Act.

### LXXIII

#### **THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992**

*An Act further to amend the Constitution of India*

[20th April, 1993]

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992. Short title and comment-  
cement.
  - (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion  
of new  
Part IX.

2. After Part VIII of the Constitution, the following Part shall be inserted, namely:—

## **PART IX**

### THE PANCHAYATS

243. In this Part, unless the context otherwise requires—

Defini-  
tions.

- (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 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.

Gram  
Sabha.

243A. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law provide.

243 B. (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

Constitu-tion of Panchayats.

(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. (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:

Composi-tion of Panchayats.

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by Law, provide for the representation:—

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate

- level, in the Panchayats at the district level;
- (b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
- (c) of the members of the House, of the People, and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;
- (d) of the members of the Council of States and the members of the Legislative Council of the 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 a Panchayat.
- (5) The Chairperson of—
- (a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and
- (b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. (1) Seats shall be reserved for—

Reserva-  
tion of  
seats.

- (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 the Panchayat area bears to the total population of that area and such seats may be allotted 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 the Scheduled Tribes in the State bears to the total population of the State:

Provided further that no less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Duration  
of  
Panchayats,  
etc.

243E. (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(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 Panchayats 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 not been so dissolved.

243F. (1) A person shall be disqualified for being chosen as, and for being a member of Panchayat— (a) If he is so disqualified by or under any law for the time being in force for the purpose 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.

Disqualifications for membership.

(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.

Powers,  
authority  
and  
respon-  
sibility of  
Panchayats.

243G. Subject to the provisions of the 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.

Powers to  
impose  
taxes by,  
and Funds  
of, the  
Panchayats.

243H. The Legislature of a State may, by law,—

- (a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243-I. (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifty year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to—

Constitu-  
tion of  
Finance  
Commis-  
sion to  
review  
financial  
position.

(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 the levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interest 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.

Audit of  
accounts  
of  
Panchayats.

243J. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Elections  
of the  
Panchayats.

243K. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in 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, election to the Panchayats.

243L. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the reference, to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and reference 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:

Application to Union territories.

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply to certain areas.

243M. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2) of article 244.

(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.

(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.

243 N. 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 the competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Continuance of existing laws and panchayats.

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.

243-O. Notwithstanding anything in this Constitution —

Bar to interference by courts in electoral matters.

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 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.

Amend-  
ment of  
article  
280.

3. In clause (3) of article 280 of the Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(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.”

Addition  
of  
Eleventh  
Schedule.

4. After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:—

#### “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.”

**LXXIV****THE CONSTITUTION (SEVENTY-FOURTH  
AMENDMENT) ACT, 1992***An Act further to amend the Constitution of India**[20th April 1993]*

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commen-  
cement.

1. (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new Part IXA.

2. After Part IX of the Constitution the following Part shall be inserted, namely:—

**PART IXA****THE MUNICIPALITIES**

Defini-  
tions.

243P. 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) “Municipality” means the territorial area of a Municipality as is notified by the Governor;

(e) "Municipality area" an institution of self-government constituted under article 243Q;

(f) "Panchayat" means a Panchayat constituted under article 243B;

(g) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. (1) There shall be constituted in every State—

Constitu-  
tion of  
Muni-  
cipalities.

(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 Corporation for a smaller urban area, and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area"

means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

Composition of Municipalities.

243R. (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose 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 Committee 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 Municipality.

243S. (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more. Constitu-tion and composit-ion of Wards Commit-tee, etc.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in 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 Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats Reserva-tion 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 clause (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. (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:

Duration  
of Munici-  
palities,  
etc.

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.

Disqualifications for membership.

243V. (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 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.

Powers, authority and responsibilities of Municipalities, etc.

243W. 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. 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; Power to impose taxes by, and Funds of, the Municipalities.
  - (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. (1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and
- Finance Commission.

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 leivable 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 grant-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.

Audit of  
accounts  
of Munici-  
palities.

243Z. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

Elections  
to the  
Munici-  
palities.

243ZA. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to

the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions of the Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to the Legislative Assembly:

Applica-  
tion to  
Union  
territories.

Provided that the President may, by public notification, direct that the provisions of the Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

Part not to  
apply to  
certain  
areas.

(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 of the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Committee  
for district  
planning.

243ZC. (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 Committee shall be chosen.

(3) Every District Planning Committee shall, in-preparing the draft development plan—

- (a) have regard to—
  - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
  - (ii) the extent and type of available resources whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZE. (1) There shall be constituted in every Metropolitan area, a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole. Committee for Metropolitan planning.

(2) The Legislature of a State may, by law, make provision with respect to—

- (a) the composition of the Metropolitan Planning Committees;
- (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in

proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

- (c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
- (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
- (e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan—

- (a) have regard to—
  - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
  - (ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
  - (iii) the overall objectives and priorities set by the Government of India and the Government of the State;
  - (iv) the extent and nature of investments likely to be made in the Metropolitan

area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Continuance of existing laws and Municipalities.

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of the State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats of such constituencies made or

Bar to interference by courts in electoral matters.

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.

Amend-  
ment of  
article  
280.

3. In clause (3) of article 280 of the Constitution, sub-clause (c) shall be relettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely:—

“(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”.

Addition  
of Twelfth  
Schedule.

4. After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:—

#### “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 ponds; 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.”

## LXXV

### THE CONSTITUTION (SEVENTY-FIFTH AMENDMENT) ACT, 1994

*An Act further to amend the Constitution of India.*

*[5th February, 1994]*

BE it enacted by Parliament in the Forty-fourth year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Seventy-fifth Amendment) Act, 1994.  
Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
323B.

2. In article 323B of the Constitution, in clause (2)—

(a) sub-clauses (h) and (i) shall be re-lettered as sub-clauses (i) and (j) and before sub-clause (i) as re-lettered, the following sub-clause shall be inserted, namely:—

“(h) rent, its regulation and control and tenancy issues including the right title and interest of landlords and tenants;”

(b) in sub-clause (i) as so re-lettered, for the brackets and letter “(g)” brackets and letter “(h)” shall be substituted.

(c) in sub-clause (j), as so re-lettered, for the brackets and letter “(h)”, the brackets and letter “(i)” shall be substituted.

## LXXVI

### THE CONSTITUTION (SEVENTY-SIXTH AMENDMENT) ACT, 1994

*An Act further to amend the Constitution of India.*

[31st August, 1994]

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Seventy-sixth Amendment) Act, 1994.

Amend-  
ment of  
the Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 257 and before *Explanation*, the following entry shall be inserted, namely:—

“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).”

## LXXVII

### **THE CONSTITUTION (SEVENTY-SEVENTH AMENDMENT) ACT, 1995**

*An Act further to amend the Constitution of India.*

[17th June, 1995]

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Seventy-seventh Amendment) Act, 1995.
2. In article 16 of the Constitution after clause (4), the following clause shall be inserted, namely:—

“(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion 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.”

## LXXVIII

### **THE CONSTITUTION (SEVENTY-EIGHTH AMENDMENT) ACT, 1995**

*An Act further to amend the Constitution of India.*

[30th August 1995]

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Seventy-eighth Amendment) Act, 1995.

Amend-  
ment of  
the Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 257A and before the *Explanation*, the following entries shall be inserted, namely:—
  - “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).
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)."

## LXXIX

### **THE CONSTITUTION (SEVENTY-NINTH AMENDMENT) ACT, 1999**

*An Act further to amend the Constitution of India*

[21st January, 2000]

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title and commencement.

Amendment of article 334.

1. (1) This Act may be called the Constitution (Seventy-ninth Amendment) Act, 1999.  
 (2) It shall come into force on the 25th day of January, 2000.
2. In article 334 of the Constitution, for the words “fifty years”, the words “sixty years” shall be substituted.

**LXXX****THE CONSTITUTION (EIGHTIETH AMENDMENT)  
ACT, 2000***An Act further to amend the Constitution of India*

[9th June, 2000]

BE it enacted by Parliament in the Fifty-first Year  
of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Eightieth Amendment) Act, 2000.

2. In article 269 of the Constitution, for clauses  
(1) and (2), the following clauses shall be  
substituted, namely:—

Amend-  
ment of  
article  
269.

‘(1) Taxes on the sale or purchase of goods  
and taxes on the consignment of goods shall  
be levied and collected by the Government  
of India but shall be assigned and shall be  
deemed to have been assigned to the States  
on or after the 1st day of April, 1996 in the  
manner provided in clause (2).

*Explanation*—For the purposes of this  
clause,—

(a) the expression “taxes on the sale or  
purchase of goods” shall mean taxes on sale  
or purchase of goods other than newspapers,  
where such sale or purchase takes place in  
the course of inter-State trade or commerce;

(b) the expression “taxes on the consignment  
of goods” shall mean taxes on the  
consignment of goods (whether the  
consignment is to the person making it or to  
any other person), whether 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.'

Substitution of new article for article 270.

Taxes levied and distributed between the Union and the States.

3. For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

'270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(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.’.

4. (1) Article 272 of the Constitution shall be omitted.

Omission  
of article  
272.

(2) Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.

(3) Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been distributed in accordance with the provisions of article 270.

**LXXXI****THE CONSTITUTION (EIGHTY-FIRST AMENDMENT)  
ACT, 2000***An Act further to amend the Constitution of India.*

[9th June, 2000]

BE it enacted by Parliament in the Fifty-first Year  
of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighty-first Amendment) Act, 2000.

Amend-  
ment of  
article 16.

2. In article 16 of the Constitution, after clause (4A), the following clause shall be inserted, namely:—

“(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.”.

**LXXXII****THE CONSTITUTION (EIGHTY-SECOND  
AMENDMENT) ACT, 2000***An Act further to amend the Constitution of India.*

[8th September, 2000]

BE it enacted by Parliament in the Fifty-first Year  
of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighty-second Amendment) Act, 2000.

2. In article 335 of the Constitution, the following proviso shall be inserted at the end, namely:—

Amend-  
ment of  
article  
335.

“Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.”.

### **LXXXIII**

#### **THE CONSTITUTION (EIGHTY-THIRD AMENDMENT) ACT, 2000**

*An Act further to amend the Constitution of India.*

[8th September, 2000]

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Eighty-third Amendment) Act, 2000.
2. In article 243M of the Constitution, after clause (3), the following clause shall be inserted, namely:—

Amend-  
ment of  
article  
243M.

“(3A) Nothing in article 243D, relating to reservation of seats for the Scheduled Castes, shall apply to the State of Arunachal Pradesh.”.

**LXXXIV****THE CONSTITUTION (EIGHTY-FOURTH  
AMENDMENT) ACT, 2001***An Act further to amend the Constitution of India.*

[21st February, 2002]

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

- |                                  |  |
|----------------------------------|--|
| Short title.                     | 1. This Act may be called the Constitution (Eighty-fourth Amendment) Act, 2001.  |
| Amend-<br>ment of<br>article 55. | 2. In article 55 of the Constitution, in the proviso to the <i>Explanation</i> , for the figures “2000”, the figures “2026” shall be substituted.  |
| Amend-<br>ment of<br>article 81. | 3. In article 81 of the Constitution, in the proviso to clause (3),— <ul style="list-style-type: none"> <li>(i) for the figures “2000”, the figures “2026” shall be substituted;</li> <li>(ii) for the words and figures “be construed as a reference to the 1971 census.”, the following shall be substituted, namely:—<br/>“be construed,—               <ul style="list-style-type: none"> <li>(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</li> <li>(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 1991 census.”.</li> </ul> </li> </ul> |
| Amend-<br>ment of<br>article 82. | 4. In article 82 of the Constitution, in the third proviso,— <ul style="list-style-type: none"> <li>(i) for the figures “2000”, the figures “2026” shall be substituted;</li> </ul>  |

(ii) for the words “readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article.”, the following shall be substituted, namely:—

“readjust—

- (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 1991 census,

under this article.”.

5. In article 170 of the Constitution,—

(a) in clause (2), in the proviso the *Explanation*, for the figures “2000” and “1971”, the figures “2026” and “1991” shall respectively be substituted;

(b) in the third proviso to clause (3),—

(i) for the figures “2000”, the figures “2026” shall be substituted;

(ii) for the words “readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause.”, the following shall be substituted, namely:—

“readjust—

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

Amend-  
ment of  
article  
170.

Amend-  
ment of  
article  
330.

Amend-  
ment of  
article  
332.

- (ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 1991 census,

under this clause.”.

6. In article 330 of the Constitution, in the proviso to the *Explanation*, for the figures “2000” and “1971”, the figures “2026” and “1991” shall respectively be substituted.

7. In article 332 of the Constitution,—

- (a) in clause (3A), for the figures “2000”, the figures “2026” shall be substituted;
- (b) in clause (3B), for the figures “2000”, the figures “2026” shall be substituted.

## LXXXV

### THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) ACT, 2001

*An Act further to amend the Constitution of India*

[4th January, 2002]

Short title  
and  
commen-  
cement.

Amend-  
ment of  
article 16.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Constitution (Eighty-fifth Amendment) Act, 2001.  
 (2) It shall be deemed to have come into force on the 17th day of June, 1995.
- 2. In article 16 of the Constitution, in clause (4A), for the words “in matters of promotion to any class”, the words “in matters of promotion, with consequential seniority, to any class” shall be substituted.

**LXXXVI**  
**THE CONSTITUTION (EIGHTY-SIXTH AMENDMENT)**  
**ACT, 2002**

*An Act further to amend the Constitution of India.*

[12th December, 2002]

BE it enacted by Parliament in the Fifty-third  
Year of the Republic of India as follows:—

- |  |  |
|--|--|
| 1. (1) This Act may be called the Constitution (Eighty-sixth Amendment) Act, 2002.<br><br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.   | Short title and commen-<br>cement.   |
| 2. After article 21 of the Constitution, the following article shall be inserted, namely:—<br><br>“21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”.      | Insertion of new article 21A.<br><br>Right to education.                                 |
| 3. For article 45 of the Constitution, the following article shall be substituted, namely:—<br><br>“45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”.                                 | Substitu-<br>tion of new article for article 45.   |
| 4. In article 51A of the Constitution, after clause (j), the following clause shall be added, namely:—<br><br>“(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.”. | Provision for early childhood care and education to children below the age of six years. |

**LXXXVII****THE CONSTITUTION (EIGHTY-SEVENTH AMENDMENT) ACT, 2003***An Act further to amend the Constitution of India*

[22nd June, 2003]

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighty-seventh Amendment) Act, 2003.

Amend-  
ment of  
article 81.

2. In article 81 of the Constitution, in clause (3), in the proviso, in clause (ii), for the figures “1991”, the figures “2001” shall be substituted.

Amend-  
ment of  
article 82.

3. In article 82 of the Constitution, in the third proviso, in clause (ii), for the figures “1991”, the figures “2001” shall be substituted.

Amend-  
ment of  
article  
170.

4. In article 170 of the Constitution,—
  - (i) in clause (2), in the *Explanation*, in the proviso, for the figures “1991”, the figures “2001” shall be substituted;
  - (ii) in clause (3), in the third proviso, in clause (ii), for the figures “1991”, the figures “2001” shall be substituted.

Amend-  
ment of  
article  
330.

5. In article 330 of the Constitution, in the *Explanation*, in the proviso, for the figures “1991”, the figures “2001” shall be substituted.

**LXXXVIII**  
**THE CONSTITUTION (EIGHTY-EIGHTH  
AMENDMENT) ACT, 2003**

*An Act further to amend the Constitution of India.*

[15th January, 2004]

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

- |  |                                |
|--|--------------------------------|
| 1. (1) This Act may be called the Constitution (Eighty-eighth Amendment) Act, 2003.  | Short title and commen-cement. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |                                |
| 2. After article 268 of the Constitution, the following shall be inserted, namely:—  | Insertion of new article 268A. |

“268A. (1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

- (a) collected by the Government of India and the States;
- (b) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.”.

- |  |                            |
|--|----------------------------|
| 3. In article 270 of the Constitution, in clause (1), for the words and figures “articles 268 and 269”, the words, figures and letter “articles 268, 268A and 269” shall be substituted. | Amend-ment of article 270. |
|--|----------------------------|

Amend-  
ment of  
Seventh  
Schedule.

4. In the Seventh Schedule to the Constitution, in **List-I—Union List**, after entry 92B, the following entry shall be inserted, namely:—  
“92C. Taxes on services.”.

## LXXXIX

### **THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003**

*An Act further to amend the Constitution of India.*

[28th September, 2003]

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
338.

2. In article 338 of the Constitution,—  
(a) for the marginal heading, the following marginal heading shall be substituted, namely:—  
“National Commission for Scheduled Castes.”;  
(b) for clauses (1) and (2), the following clauses shall be substituted, namely:  
“(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.”;

- (c) in clauses (5), (9) and (10), the words “and Scheduled Tribes”, wherever they occur, shall be omitted.

3. After article 338 of the Constitution, the following article shall be inserted, namely:—

“338A. (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.

Insertion  
of new  
article  
338A.

National  
Commis-  
sion for  
Scheduled  
Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the 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 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 of such recommendations.

- (7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- (8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—
  - (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
  - (b) requiring the discovery and production of any document;
  - (c) receiving evidence on affidavits;
  - (d) requisitioning any public record or copy thereof from any court or office;
  - (e) issuing commissions for the examination of witnesses and documents;
  - (f) any other matter which the President may, by rule, determine.
- (9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.”.

**XC****THE CONSTITUTION (NINETIETH AMENDMENT)  
ACT, 2003***An Act further to amend the Constitution of India.**[28th September, 2003]*

BE it enacted by Parliament in the Fifty-fourth  
Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Ninetieth Amendment) Act, 2003.
2. In article 332 of the Constitution, in clause (6), the following proviso shall be inserted, namely:—

Amend-  
ment of  
article  
332.

“Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Areas District, shall be maintained.”.

**XCI****THE CONSTITUTION (NINETY-FIRST AMENDMENT)  
ACT, 2003***An Act further to amend the Constitution of India.**[1st January, 2004]*

BE it enacted by Parliament in the Fifty-fourth  
Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Ninety-first Amendment) Act, 2003.

- 
2. In article 75 of the Constitution, after clause (1), the following clauses shall be inserted, namely:—

Amend-  
ment of  
article 75.

“(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.”.

3. In article 164 of the Constitution, after clause (1), the following clauses shall be inserted, namely:—

Amend-  
ment of  
article  
164.

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

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

Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the

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

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

Insertion  
of new  
article  
361B.

Disqualifi-  
cation for  
appoint-  
ment on  
remunera-  
tive  
political  
post.

4. After article 361A of the Constitution, the following article shall be inserted, namely:—

‘361B. A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period

commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

*Explanation.*—For the purposes of this article,—

- (a) the expression “House” has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule;
- (b) the expression “remunerative political post” means any office
  - (i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or
  - (ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.’.

5. In the Tenth Schedule to the Constitution,—
- (a) in paragraph 1, in clause (b), the words and figure “paragraph 3 or, as the case may be,” shall be omitted;
  - (b) in paragraph 2, in sub-paragraph (1), for the words and figures “paragraphs 3, 4
- Amend-  
ment of  
the Tenth  
Schedule.

and 5”, the words and figures “paragraphs 4 and 5” shall be substituted;

- (c) paragraph 3 shall be omitted.

## XCII

### **THE CONSTITUTION (NINETY-SECOND AMENDMENT) ACT, 2003**

*An Act further to amend the Constitution of India.*

[8th January, 2004]

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

- |  |  |
|--|--|
| Short title.                             | 1. This Act may be called the Constitution (Ninety-second Amendment) Act, 2003.  |
| Amend-<br>ment of<br>Eighth<br>Schedule. | <p>2. In the Eighth Schedule to the Constitution,—</p> <p>(a) existing entry 3 shall be re-numbered as entry 5, and before entry 5 as so re-numbered, the following entries shall be inserted, namely:—</p> <p>“3. Bodo.</p> <p>4. Dogri.”;</p> <p>(b) existing entries 4 to 7 shall respectively be re-numbered as entries 6 to 9;</p> <p>(c) existing entry 8 shall be re-numbered as entry 11 and before entry 11 as so re-numbered, the following entry shall be inserted, namely:—</p> <p>“10. Maithili.”;</p> <p>(d) existing entries 9 to 14 shall respectively be re-numbered as entries 12 to 17;</p> <p>(e) existing entry 15 shall be re-numbered as entry 19 and before entry 19 as so re-</p> |

numbered, the following entry shall be inserted, namely:—

“18. Santhali.”;

(f) existing entries 16 to 18 shall respectively be re-numbered as entries 20 to 22.

### XCIII

#### **THE CONSTITUTION (NINETY-THIRD AMENDMENT) ACT, 2005**

*An Act further to amend the Constitution of India.*

[20th January, 2006]

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

- |  |  |
|--|--|
| <p>1. (1) This Act may be called the Constitution (Ninety-third Amendment) Act, 2005.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. In article 15 of the Constitution, after clause (4), the following clause shall be inserted, namely:—</p> <p>“(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.”.</p> | <p>Short title<br/>and<br/>commen-<br/>cement.</p> <p>Amend-<br/>ment of<br/>article 15.</p> |
|--|--|

**XCIV****THE CONSTITUTION (NINETY-FOURTH  
AMENDMENT) ACT, 2006**

*An Act further to amend the Constitution of India.*

[12th June, 2006]

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

- |                                      |   |
|--------------------------------------|---|
| Short title.                         | 1. This Act may be called the Constitution (Ninety-fourth Amendment) Act, 2006.   |
| Amend-<br>ment of<br>article<br>164. | 2. In article 164 of the Constitution, in clause (1), in the proviso, for the word “Bihar”, the words “Chhattisgarh, Jharkhand” shall be substituted. |

## **ANNEXURE (B)**

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### **TEXTS OF THE CONSTITUTION AMENDMENT BILLS—REMOVED, LAPSED, WITHDRAWN OR NEGATIVED**

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**Bill No. 60 of 1955**

**THE CONSTITUTION (FIFTH AMENDMENT)  
BILL, 1955**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fifth Amendment) Act, 1955.

2. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely:—

“Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference.”

3. (1) In article 100 of the Constitution,—

- (a) in clause (3), for the words “Until Parliament by law otherwise provides”, the words “Save as otherwise provided by rules regulating the procedure of the House” shall be substituted; and

- (b) clause (4) shall be omitted.

Amend-  
ment of  
articles  
100 and  
189.

(2) in article 189 of the Constitution,—

- (a) in clause (3), for the words “Until the Legislature of the State by law otherwise provides”, the words “Save as otherwise provided by rules regulating the procedure of the House” shall be substituted; and
- (b) clause (4) shall be omitted.

4. (1) In Article 101 of the Constitution in clause (3), sub-clause (a) and the brackets and letter “(b)” shall be omitted.
- (2) For article 103 of the Constitution, the following article shall be substituted, namely:—

Amend-  
ment of  
articles  
101, 103,  
190 and  
192.

Decision  
on  
question  
as to  
disqualifi-  
cations of  
members.

“103. (1) If it is represented to the Chairman or the Speaker that a member of the Council of States, or as the case may be, of the House of the People is disqualified for being such a member under the provisions of article 102, or was so disqualified at any time since being chosen as such member, and the member does not admit that he is or was so disqualified, the question shall be referred to the Election Commission for decision, and its decision shall be final:

Provided that where the disqualification in question arises from circumstances which subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained—

- (a) unless it is made after the expiration of the period prescribed by law for presenting an election petition calling in question the election of the member, and

- (b) if such an election petition is pending or has been tried, unless the Chairman or Speaker, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised, or as the case may be was not raised, in the proceedings on the election petition.
- (2) Where on a representation made under clause (1) the member admits that he is or was disqualified under the provisions of article 102, or where on a reference made under that clause the Election Commission decides that the member is or was so disqualified, his seat shall thereupon become vacant".
- (3) In article 190 of the Constitution, in clause (3), sub-clause (a) and the brackets and letter "(b)" shall be omitted.
- (4) For article 192 of the Constitution, the following article shall be substituted, namely:—
- "192. (1) If it is represented to the Speaker or the Chairman that a member of the Legislative Assembly or, as the case may be, of the Legislative Council of a State is disqualified for being such a member under the provisions of article 191, or was so disqualified at any time since being chosen as a member, and the member does not admit that he is or was so disqualified, the question shall be referred to the Election Commission for decision, and its decision shall be final:
- Provided that where the disqualification in question arises from circumstances which

Decision  
on  
questions  
as to  
disqualifi-  
cations of  
members.

subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained—

- (a) unless it is made after the expiration of the period prescribed by law for presenting an election petition calling in question the election of the member, and
  - (b) if such an election petition is pending or has been tried, unless the Speaker or Chairman, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised, or as the case may be, was not raised, in the proceedings on the election petition.
- (2) Where on a representation made under clause (1) the member admits that he is or was disqualified under the provisions of article 191, or where on a reference made under that clause the Election Commission decides that the member is or was so disqualified, his seat shall thereupon become vacant".

5. (1) In article 148 of the Constitution to clause (4), the following *Explanation* shall be added, namely:—

*"Explanation:*—For the purposes of this clause, the office of a Minister for the Union or for a State shall not be deemed to be an office either under the Government of India or under the Government of a State."

- (2) In article 319 of the Constitution,—

- (a) for the word "employment" wherever it occurs, the word "office" shall be substituted; and

Amend-  
ment of  
articles  
148 and  
319.

(b) the following *Explanation* shall be added at the end, namely:—

*Explanation.*—For the purposes of this article, the office of a Minister for the Union or for a State shall not be deemed to be an office either under the Government of India or under the Government of a State”.

6. In article 276 of the Constitution, in clause (2), for the words “two hundred and fifty rupees”, wherever they occur, the words “one thousand rupees” shall be substituted. Amend-  
ment of  
article  
276.

7. In article 297 of the Constitution, after the words “territorial waters” the words “or continental shelf” shall be inserted. Amend-  
ment of  
article  
297.

8. In article 311 of the Constitution, for clauses (2) and (3), the following clauses shall be substituted, namely:— Amend-  
ment of  
article  
311.

“(2) No such person as aforesaid shall be dismissed or removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of defending himself:

Provided that this clause shall not apply—

(a) where a person is dismissed or removed 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 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 Governor or Rajpramukh, 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; or

(d) where the person to be dismissed or removed belongs to any such class of employees in a commercial or industrial establishment of the Union or of a State as the President, Governor or Rajpramukh, as the case may be, may by order specify in this behalf.

(3) If in respect of any such person as aforesaid a question arises whether it is reasonably practicable to hold such an inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person shall be final.”

Amend-  
ment of  
article  
316.

9. In article 316 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) If the office of Chairman of a 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 or Rajpramukh of the State in the case of a State Commission, may appoint for the purpose”.

**Bill No. 61 of 1955****THE CONSTITUTION (SIXTH AMENDMENT)  
BILL, 1955***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Sixth Amendment) Act, 1955. Short title.
2. In article 216 of the Constitution, the proviso shall be omitted. Amendment of article 216.
3. In article 217 of the Constitution, in clause (1), for the words “shall hold office until he attains the age of sixty years”, the following words and figures shall be substituted, namely:—  
 “shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case until he attains the age of sixty years”. Amendment of article 217.
4. For article 220 of the Constitution, the following article shall be substituted, namely:—  
 “220. No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority of India except the Supreme Court and the other High Courts”. Substitution of new article for article 220.

“220. No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority of India except the Supreme Court and the other High Courts”. Restriction on practice after being a permanent judge.

Substitution of new article for article 224.

5. For article 224 of the Constitution, the following article shall be substituted, namely:—

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

(2) When any Judge of High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties”.

Insertion of new article 258A.

6. After article 258 of the Constitution, the following article shall be inserted, namely:—

Power of the States to entrust functions to the Union or its officers.

“258A. Notwithstanding anything in this Constitution, the Governor or Rajpramukh 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”.

7. For article 298 of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 298.

“298. The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose:

Power to carry on trade or business etc.

Provided that—

(a) the said executive power of the Union shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State; and

(b) the said executive power of such 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.”

8. In the Second Schedule to the Constitution in paragraph 10, to sub-paragraph (1), the following proviso shall be added, namely:—

Amendment of the Second Schedule.

“Provided that if a Judge of any such 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 by the amount of that pension.”

Amendment of certain provisions relating to ancient and historical monuments, etc.

Modification of entries in the Lists relating to acquisition and requisitioning of property.

Amendment of entry 24 of State List.

9. In each of the following provisions of the Constitution, namely:—  
 (i) article 49,  
 (ii) entry 67 of the Union List,  
 (iii) entry 12 of the State List, and  
 (iv) entry 40 of the Concurrent List,

for the words “declared by Parliament by law”, the words, “declared by or under law made by Parliament” shall be substituted.

10. In the Seventh Schedule to the Constitution, entry 33 of the Union List and entry 36 of the State List shall be omitted and for entry 42 of the Concurrent List, the following entry shall be substituted, namely:—  
 “42. Acquisition and requisitioning of property.”

11. In the Seventh Schedule to the Constitution, in entry 24 of the State List, for the word and figures “entry 52”, the words and figures “entries 7 and 52” shall be substituted.

### **Bill No. 63 of 1955**

#### **THE CONSTITUTION (SEVENTH AMENDMENT) BILL, 1955**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Seventh Amendment) Act, 1955.

2. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely:—

Amend-  
ment of  
article 3.

“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 specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference.”

**Bill No. 26 of 1963**

**THE CONSTITUTION (SEVENTEENTH AMENDMENT)  
BILL, 1963**

(As INTRODUCED IN LOK SABHA)

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Seventeenth Amendment) Act, 1963.

2. In article 31A of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted and shall be deemed always to have been substituted, namely:—

Amend-  
ment of  
article  
31A.

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

- (i) any jagir, inam or muafi or other similar grant and in the States of Madras and Kerala, any Janmam right;
- (ii) any land held under ryotwari settlement;
- (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture and sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans'.

Amend-  
ment of  
Ninth  
Schedule.

3. In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely:—
  - “21. The Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
  22. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).
  23. The Andhra Pradesh (Telangana Area) Jagris (Commutation) Regulation (Amendment) Act, 1961 (Andhra Pradesh Act XVIII of 1961).
  24. 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).
  25. The Assam State Acquisition of Zamindaris Act, 1951 (Assam Act XVIII of 1951).

26. The Assam Fixation of Ceiling on Land Holdings Act, 1956 (Assam Act 1 of 1957).
27. The Assam State Acquisition of Land Belonging to Religious or Charitable Institution of Public Nature Act, 1959 (Assam Act IX of 1961).
28. The Assam Consolidation of Holdings Act, 1960 (Assam Act XIX of 1961).
29. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).
30. The Bihar Land Reforms (Amendment) Act, 1959 (Bihar Act XVI of 1959).
31. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962).
32. The Bombay Bhagidari and Narwadari Tenures Abolition Act, 1949 (Bombay Act XXXII of 1949).
33. The Bombay Watwa Vazifdari Rights Abolition Act, 1950 (Bombay Act LXII of 1950).
34. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1951 (Bombay Act XII of 1951).
35. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1951 (Bombay Act XXXIV of 1951).
36. The Bombay Tenancy and Agricultural Lands (Third Amendment) Act, 1951 (Bombay Act XLV of 1951).
37. The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951 (Bombay Act XLVII of 1951).

38. The Bombay Land Tenures Abolition (Compensation Application Extension of Date) (Amendment) Act, 1952 (Bombay Act III of 1952).
39. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952 (Bombay Act XXXIII of 1952).
40. The Bombay Saranjam Jahagris and other Inams of Political Nature Resumption Rules, 1952.
41. The Bombay Land Tenures Abolition (Amendment) Act, 1953 (Bombay Act XXXVIII of 1953).
42. The Bombay Personal Inams Abolition Act, 1952 (Bombay Act XLII of 1953).
43. The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 (Bombay Act XLIII of 1953).
44. The Bombay Kauli and Katuban Tenures (Abolition) Act, 1953 (Bombay Act XLIV of 1953).
45. The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953 (Bombay Act XLV of 1953).
46. The Bombay Merged Territories (Baroda Wantan Abolition) Act, 1953 (Bombay Act XLVI of 1953).
47. The Bombay Merged Territories Matadari Tenure Abolition Act, 1953 (Bombay Act XLVIII of 1953).
48. The Bombay Land Tenures Abolition (Recovery of Records) Act, 1953 (Bombay Act L of 1953).

49. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1953 (Bombay Act LX of 1953).
50. The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bombay Act LXX of 1953).
51. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953 (Bombay Act LXXI of 1953).
52. The Bombay (Okhamandal Salam Tenure Abolition) Act, 1953 (Bombay Act I of 1954).
53. The Bombay Pargana and Kulkarni Watans (Abolition) Amendment Act, 1954 (Bombay Act XXIX of 1954).
54. The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bombay Act XXXIX of 1954).
55. The Bombay Amending Act, 1954 (Bombay Act LVIII of 1954).
56. The Bombay Service Inams Useful to Community (Gujarat and Konkan) Resumption Rules, 1954.
57. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1954 (Bombay Act I of 1955).
58. The Bombay Bhil Naik Inams Abolition Act, 1955 (Bombay Act XXI of 1955).
59. The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bombay Act XXII of 1955).
60. The Bombay Shilotri Rights (Kolaba) Abolition Act, 1955 (Bombay Act XLVII of 1955).

61. The Bombay Pargana and Kulkarni Watans (Abolition) Amendment Act, 1955 (Bombay Act L of 1955).
62. The Bombay Land Tenures Abolition (Amendment) Act, 1955 (Bombay Act LI of 1955).
63. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (Bombay Act XIII of 1956).
64. The Bombay Land Tenures Abolition (Amendment) Act, 1956 (Bombay Act XL of 1956).
65. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1957 (Bombay Act XV of 1957).
66. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1957 (Bombay Act XXXVIII of 1957).
67. The Bombay Taluqdari Tenure (Abolition) Amendment Act, 1957 (Bombay Act XVIII of 1958).
68. The Bombay Land Tenure Abolition Laws (Amendment) Act, 1958 (Bombay Act LVII of 1958).
69. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1958 (Bombay Act LXIII of 1958).
70. The Bombay Land Tenures Abolition (Amendment) Act, 1958 (Bombay Act XCIII of 1958).
71. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).

72. The Bombay Tenancy and Agricultural Lands (Vidharbha Region and Kutch Area) Act, 1958 (Bombay Act XCIX of 1958).
73. The Bombay Inferior Village Watans Abolition Act, 1958 (Bombay Act I of 1959).
74. The Bombay Ankadia Tenure (Saurashtra Area) Abolition Act, 1959 (Bombay Act XXXI of 1959).
75. The Bombay Bandhijama, Udhad and Ugadia Tenures Abolition Act, 1959 (Bombay Act XXXV of 1959).
76. The Bombay (Saurashtra Area) Aghat Tenure and Ijaras Abolition Act, 1959 (Bombay Act LXV of 1959).
77. The Bombay Taluqdari Tenure (Abolition) Amendment Act, 1960 (Bombay Act XVIII of 1960).
78. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).
79. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVII of 1961).
80. The Gujarat Patel Watans Abolition Act, 1961 (Gujarat Act XLVIII of 1961).
81. The Bombay Taluqdari Tenure Abolition (Gujarat Amendment) Act, 1962 (Gujarat Act XV of 1962).
82. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).
83. The Saurashtra Land Reforms Act, 1951 (Saurashtra Act XXV of 1951).

84. The Saurashtra Barkhali Abolition Act, 1951 (Saurashtra Act XXVI of 1951).
85. The Saurashtra Estates Acquisition Act, 1952 (Saurashtra Act III of 1952).
86. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960 (Maharashtra Act IX of 1961).
87. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXVII of 1961).
88. The Maharashtra Revenue Patels (Abolition of Office) Act, 1962 (Maharashtra Act XXXV of 1962).
89. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1962 (Maharashtra Act XXXVI of 1962).
90. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1962 (Maharashtra Act VIII of 1963).
91. The West Khandesh Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961 (Maharashtra Regulation I of 1962).
92. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).
93. The Hyderabad Abolition of Inams Act, 1954 (Hyderabad Act VIII of 1955).
94. The Kerala Agrarian Relations Act, 1960 (Kerala Act IV of 1961).
95. The Madhya Bharat Zamindari Abolition Act, Samvat 2008 (Madhya Bharat Act XIII of 1951).

96. The Madhya Bharat Abolition of Jagirs Act, Samvat 2008 (Madhya Bharat Act XXVIII of 1951).
97. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).
98. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).
99. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1951 (Madras Act XVII of 1951).
100. The Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Act, 1951 (Madras Act XXXV of 1951).
101. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1953 (Madras Act IX of 1953).
102. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1954 (Madras Act XXXIV of 1954).
103. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).
104. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).
105. The Madras Estates (Supplementary) Act, 1956 (Madras Act XXX of 1956).
106. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1956 (Madras Act XLIV of 1956).

107. The Madras Estates (Abolition and Conversion into Ryotwari), Estates Land (Reduction of Rent) and Estates (Supplementary) Amendment Act, 1958 (Madras Act XXXIV of 1958).
108. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1961 (Madras Act XVIII of 1961).
109. The Madras Estates (Supplementary) Amendment Act, 1961 (Madras Act XXXV of 1961).
110. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).
111. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).
112. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).
113. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).
114. The Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act I of 1955).
115. The Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act XVIII of 1955).
116. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).
117. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).

118. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).
119. The Orissa Land Reforms Act, 1960 (Orissa Act XVI of 1960).
120. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).
121. The PEPSU Tenancy and Agricultural Lands Act, 1955 (PEPSU Act XIII of 1955).
122. The Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act VI of 1952).
123. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).
124. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).
125. The Rajasthan Kasar Khom Abolition Act, 1961 (Rajasthan Act XXXV of 1961).
126. The Ajmer Abolition of Intermediaries and Land Reforms Act, 1955 (Ajmer Act III of 1955).
127. The Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Act, 1952 (U.P. Act XVI of 1953).
128. The Uttar Pradesh Land Reforms (Amendment) Act, 1954 (U.P. Act XX of 1954).
129. The Jaunsar Bawar Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act XI of 1956).

130. The Uttar Pradesh Land Reforms (Amendment) Act, 1956 (U.P. Act XVIII of 1956).
131. The Uttar Pradesh Urban Areas Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act IX of 1957).
132. The Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Act, 1958 (U.P. Act XIV of 1958).
133. The Uttar Pradesh Land Reforms (Amendment) Act, 1958 (U.P. Act XXXVII of 1958).
134. The Uttar Pradesh Government Estates Thekedari Abolition Act, 1958 (U.P. Act I of 1959).
135. The Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act 1960 (U.P. Act XVII of 1960).
136. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (U.P. Act I of 1961).
137. The Uttar Pradesh Land Laws (Amendment) Act, 1962 (U.P. Act XXI of 1962).
138. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).
139. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).
140. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
141. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).

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- 142. The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (Himachal Pradesh Act XV of 1954).
  - 143. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
  - 144. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).

*Explanation.*—Any reference in entries 21 to 144 of this Schedule to any Act, Regulation or Rule (other than an Amending Act) shall be construed as including a reference to such Act, Regulation or Rule as amended from time to time up to the first day of April, 1963.”

#### Bill No. 36 of 1964

### **THE CONSTITUTION (EIGHTEENTH AMENDMENT) BILL, 1964**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution Short title. (Eighteenth Amendment) Act, 1964.
- 2. In article 359 of the Constitution,—
  - (a) after clause (1), the following clause shall be inserted, and shall be deemed always to have been inserted, namely:—
 

Amend-  
ment of  
article  
359.

“(2) While an order made under clause (1) in relation to any of the rights

conferred by Part III 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 of have effect."

- (b) The existing clauses (2) and (3) shall be renumbered as clauses (3) and (4);
- (c) in clause (3) as so re-numbered, after the words "the territory of India", the words "or may apply to all persons or any class of persons therein, and any such order may be made so as to be retrospective to any date not earlier than the date of the issue of the proclamation" shall be inserted, and shall be deemed always to have been inserted.

**Bill No. 36 of 1966**

**THE CONSTITUTION (NINETEENTH AMENDMENT)  
BILL, 1966**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

- |              |  |
|--------------|--|
| Short title. | 1. This Act may be called the Constitution (Nineteenth Amendment) Act, 1966. |
|--------------|--|

2. In article 3 of the Constitution, the following *Explanations* shall be inserted at the end, namely:—

Amend-  
ment of  
article 3.

*“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”.*

#### Bill No. 113 of 1968

#### **THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-second Amendment) Act, 1968. Short title.

Insertion  
of new  
article  
244A.

2. In Part X of the Constitution, after article 244, the following article shall be inserted, namely:—

*“244A (1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and create therefor—*

Formation of  
an autonomous  
State compris-  
ing certain  
tribal areas in  
Assam and  
creation of lo-  
cal Legislature  
or Council of  
Ministers or  
both 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,—
- (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 the Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.”

3. In article 275 of the Constitution, after clause (1), the following clause shall be inserted namely:—

“(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.”

Amend-  
ment of  
article  
275.

Insertion  
of new  
article  
371B.

Special  
provision  
with  
respect to  
the State  
of Assam.

4. After article 371A of the Constitution, the following article shall be inserted, namely:—

“371B. Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the constitution and functions of a committee of the Legislative Assembly of the State, consisting of members of that Assembly elected from the tribal areas specified in Part A 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.”

**Bill No. 53 of 1970**

**THE CONSTITUTION (TWENTY-FOURTH  
AMENDMENT) BILL, 1970**

(*AS INTRODUCED IN LOK SABHA*)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Twenty-fourth Amendment) Act, 1970.

Omission  
of articles  
291 and  
362.

2. Articles 291 and 362 of the Constitution shall be omitted.

Amendment  
of article  
366.

3. In article 366 of the Constitution, clause (22) shall be omitted.

**Bill No. 179 of 1971****THE CONSTITUTION (TWENTY-EIGHTH  
AMENDMENT) BILL, 1971***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-eighth Amendment) Act, 1971. Short title.
2. In article 352 of the Constitution—
  - (a) in clause (1), after the words “make a declaration to that effect”, the following shall be inserted, namely:—
 

“in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation”;
  - (b) in clause (2), in sub-clause (a), after the words “revoked”, the words “or varied” shall be inserted;
  - (c) after clause (2), the following clause shall be inserted, namely:—
 

“(2A) Where a Proclamation issued under clause (1) is varied by a subsequent proclamation, the provisions of clause (2) shall, so far as may be, apply in relation to such subsequent Proclamation as they apply in relation to a Proclamation issued under clause (1).”
3. The article 353 of the Constitution, the following proviso shall be added, namely:—
 

Amend-  
ment of  
article  
353.

“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.”

Amend-  
ment of  
Article  
358.

4. To article 358 of the Constitution, the following proviso shall be added, namely:—

“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 specified in the First Schedule 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.”

Amend-  
ment of  
article  
359.

5. In article 359 of the Constitution, to clause (2), the following proviso shall be added, namely:—

“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.”

**Bill No. 34 of 1972**

**THE CONSTITUTION (TWENTY-NINTH  
AMENDMENT) BILL, 1972**

(*AS INTRODUCED IN LOK SABHA*)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the twenty-third year of the Republic of India as follows:—

1. This Act may be called the Constitution (Twenty-ninth Amendment) Act, 1972. Short title.
2. In Clause (1) of article 31A of the Constitution—
  - (a) in the second proviso, for the words “within the ceiling limit applicable to him under any law for the time being in force”, the words “within the ceiling limit applicable to him under any law providing for ceiling limits” shall be substituted and shall be deemed to have been substituted on and from the 20th day of June, 1964; Amend-  
ment of  
article  
31A.
  - (b) after the second proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted on and from the 20th day of June, 1964, namely:—

*“Explanation.—In the foregoing proviso, the expression ‘law providing for ceiling limits’ means law providing for ceiling limits as originally enacted or as re-enacted, whether with or without modification, from time to time, and, in any such case where the law is amended, the law as amended from time-to-time.”*

**Bill No. 39 of 1973**

**THE CONSTITUTION (THIRTY-SECOND AMENDMENT) BILL, 1973**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Thirty-second Amendment) Act, 1973.

Amend-  
ment of  
article 75.

2. In article 75 of the Constitution, for clause (5), the following clause shall be substituted, namely:—

“(5) A Prime Minister who for any period of six consecutive months is not a member of the House of the people, or any other 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 the Prime Minister or, as the case may be, a Minister.”

Amend-  
ment of  
article  
101.

3. In article 101 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures “clause (1) of article 102”, the words, brackets and figures

“clause (1) or clause (2) of article 102” shall be substituted.

4. In article 102 of the Constitution.—

Amend-  
ment of  
article  
102.

(a) for the brackets, figure and words “(2) For the purposes of this article,” the words “*Explanation*.—For the purposes of this clause” shall be substituted;

(b) the following clauses shall be inserted at the end, namely:—

“(2) A person shall be disqualified for continuing as a member of either House of Parliament—

(a) if he, having been elected as such member, voluntarily gives up his membership of the political party by which he was set up as a candidate in such election or of which he became a member after such election; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by such political party or by any person or authority authorised by it in this behalf without obtaining prior permission of such party, person or authority.

(3) Notwithstanding anything in clause (2), a member of either House of Parliament shall not be disqualified under sub-clause (a) of clause (2) on the ground that he has voluntarily given up his membership of any political party if he has given up his membership of such political party by reason of a split therein.

(4) Notwithstanding anything in clause (2), where there has been a split in any political party (referred to in this clause as the “original political party”) and any group of members thereof has been registered under any law or any rule, regulation, order or notification having the force of law with respect to matters relating to, or in connection with, elections to either House of Parliament as a separate political party (referred to in this clause as the “new political party”) then a member of either House of Parliament who belonged to the original political party and who became a member of the new political party shall not be disqualified under sub-clause (b) of clause (2) on the ground that he, at any time after the registration of the new political party, has voted or abstained from voting contrary to any direction of the original political party or any person or authority authorised by it for the purposes of that sub-clause.

*Explanation.*—For the purposes of clauses (2), (3) and (4) and article 103, “political party” means—

- (i) a political party classified as a recognised political party under any law or any rule, regulation, order or notification having the force of law with respect to matters relating to, or in connection with, elections to either House of Parliament;
- (ii) any other political party which is recognised by the Chairman or, as the case may be the Speaker of such House as a political party and which on the date of such recognition consists of not less

than one-fifteenth of the total number of members of such House.

5. In article 103 of the Constitution, in clause (1).—  
Amendment of article 103.
- (a) for the words, brackets and figures “clause (1) of article 102”, the words, brackets and figures “clause (1) or clause (2) of article 102” shall be substituted;
- (b) the following proviso shall be inserted at the end, namely:—
- “Provided that the President shall not entertain any question as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (2) of article 102 unless the question has been referred for his decision by the political party or any person or authority authorised by it in this behalf.”
6. In article 164 of the Constitution, for clause (4), the following clause shall be substituted, namely:  
Amendment of article 164.
- “(4) A Chief Minister who for any period of six consecutive months is not a member of the Legislative Assembly of the State, and any other 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 the Chief Minister or, as the case may be, a Minister.”
7. In article 190 of the Constitution, in sub-clause (a) of clause (3) for the words, brackets and figures “clause (1) of article 191,” the words, brackets and figures “clause (1) or clause (2) of article 191” shall be substituted.  
Amendment of article 190.

Amend-  
ment of  
article  
191.

8. In article 191 of the Constitution,—

(a) for the brackets, figures and words “(2) for the purposes of this article”, the words “*Explanation.—*For the purposes of this clause” shall be substituted.

(b) the following clauses shall be inserted at the end, namely:—

“(2) A person shall be disqualified for continuing as a member of the Legislative Assembly or Legislative Council of a State—

(a) if he, having been elected as such member, voluntarily gives up his membership of the political party by which he was set up as a candidate in such election or of which he became a member after such election; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by such political party or by any person or authority authorised by it in this behalf without obtaining prior permission of such party, person or authority.

(3) Notwithstanding anything in clause (2), a member of the Legislative Assembly or Legislative Council of a State shall not be disqualified under sub-clause (a) of clause (2) on the ground that he has voluntarily given up his membership of any political party if he has given up his membership of such political party by reason of a split therein.

(4) Notwithstanding anything in clause (2), where there has been a split in any political party (referred to in this clause as the “original political party”) and any group of members thereof has been registered under any law or any rule, regulation, order or notification having the force of law with respect to matters relating to, or in connection with, elections to the Legislative Assembly or Legislative Council of a State as a separate political party (referred to in this clause as the “new political party”), then a member of the Legislative Assembly or Legislative Council of the State who belonged to the original political party and who became a member of the new political party shall not be disqualified under sub-clause (b) of clause (2) on the ground that he, at any time after the registration of the new political party, has voted or abstained from voting contrary to any direction of the original political party or any person or authority authorised by it for the purposes of that sub-clause.

*Explanation*—For the purposes—of clauses (2), (3) and (4) and article 192, “political party” means—

- (i) a political party classified as a recognised political party under any law or any rule, regulation, order or notification having the force of law with respect to matters relating to, or in connection with, elections to the legislative Assembly or Legislative Council of a State;
- (ii) any other political party which is recognised by the Speaker or, as the case may be, the Chairman of such House as

a political party and which on the date of such recognition consists of not less than one-fifteenth of the total number of members of such House.”

Amend-  
ment of  
article  
192.

9. In article 192 of the Constitution, in clause (1),—

- (a) for the words, brackets and figures “clause (1) of article 191”, the words, brackets and figures “clause (1) or clause (2) of article 191” shall be substituted;
- (b) the following proviso shall be inserted at the end, namely:—

“Provided that the Governor shall not entertain any question as to whether a member of the Legislative Assembly or Legislative Council of a State has become subject to any of the disqualifications mentioned in clause (2) of article 191 unless the question has been referred for his decision by the political party or any person or authority authorised by it in this behalf.”

Saving.

10. Nothing contained in clause (4) of article 164 of the Constitution as amended by this Act shall apply to any person holding office as Chief Minister of a State at the commencement of this Act till the expiry of a period of six months from such commencement or the dissolution of the Legislative Assembly of the State, in existence at such commencement, whichever is earlier.

**Bill No. XVIII of 1975**

**THE CONSTITUTION (FORTY-FIRST AMENDMENT)  
BILL, 1975**

*(As INTRODUCED IN RAJYA SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-sixth  
Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title.  
(Forty-first Amendment) Act, 1975.
  2. In article 361 of the Constitution,—
    - (a) in clause (1), for the words “The President, or the Governor”, the words “The President, or the Prime Minister, or the Governor” shall be substituted and shall be deemed always to have been substituted;
    - (b) for clauses (2), (3) and (4), the following clauses shall be substituted, and shall be deemed always to have been substituted, namely:—
 

“(2) No criminal proceedings whatsoever, against or concerning a person who is or has been the President or the Prime Minister or the Governor of a State, shall lie in any court, or shall be instituted or continued in any court, in respect of any act done by him, whether before he entered upon his office or during his term of office as President or Prime Minister or Governor of a State, as the case may be, and no process whatsoever including process for arrest or imprisonment shall issue from any court against such person in respect of any such act.
- Amend-  
ment of  
article  
361.

(3) No civil proceeding against the President, or the Prime Minister, or the Governor of a State, shall be instituted or continued 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 Prime Minister, or as Governor of such State:

Provided that the period for which such civil proceedings could not be instituted shall be excluded for the purposes of any law for the time being in force relating to limitation.”

**Bill No. 20 of 1977**

**THE CONSTITUTION (FORTY-THIRD AMENDMENT)  
BILL, 1977**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Forty-third Amendment) Act, 1977.

Omission  
of article  
31D.

2. Article 31D of the Constitution shall be omitted.

Amend-  
ment of  
article 83.

3. (1) In article 83 of the Constitution, in clause (2), for the words “six years” in the two places where they occur, the words “five years” shall be substituted.

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to

the House of the people in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

4. (1) In article 172 of the Constitution, in clause (1), for the words “six years” in the two places where they occur, the words “five years” shall be substituted.

Amend-  
ment of  
article  
172.

(2) The amendments made by sub-section (1) to clause (1) of article 172—

(a) shall apply to the existing Legislative Assemblies of the States of Gujarat, Kerala, Orissa, Uttar Pradesh, Manipur and Sikkim without prejudice to the power of Parliament with respect to the extension of the duration of any such Assembly under the proviso to the said clause (1);

(b) shall not apply to the existing Legislative Assemblies of other States but every such Legislative Assembly shall, unless sooner dissolved, stand dissolved on the expiry of three months from the date of coming into force of this section.

*Explanation.*—In this sub-section, “existing Legislative Assembly” in relation to any State means the Legislative Assembly, if any, of that State in existence on the date of coming into force of this section.

5. In article 329 of the Constitution, for the words, figures and letter “Notwithstanding anything in this Constitution but subject to the provisions of article 329A-”, the words “Notwithstanding anything in this

Amend-  
ment of  
article  
329.

Constitution-” shall be substituted and shall be deemed to have been substituted with effect from the 10th day of August, 1975.

Omission  
of article  
329A and  
saving.

6. (1) Article 329A of the Constitution shall be omitted and shall be deemed to have been omitted with effect from the 10th day of August, 1975.

(2) Any petition calling in question an election referred to in article 329A aforesaid which is pending immediately before the date on which this Act receives the assent of the President shall abate but an election petition referred to in clause (b) of article 329 of the Constitution for calling in question such election may be presented under any such law as is referred to in that clause within forty-five days of the said date.

Amend-  
ment of  
article  
371F.

7. In article 371F of the Constitution, in clause (c), for the words “six years”, the words “five years” shall be substituted and for the words “five years” in the two places where they occur, the words “four years” shall be substituted.

### **Bill No. 119 of 1978**

#### **THE CONSTITUTION (FORTY-SIXTH AMENDMENT) BILL, 1978**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Forty-sixth Amendment) Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new articles for article 338.

2. For article 338 of the Constitution, the following articles shall be substituted, namely:—

“338. (1) There shall be Commission for the Scheduled Castes and Scheduled Tribes.

Commission for Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of such person or persons as the President may appoint and the conditions of service and tenure of office of the person or persons so appointed shall be such as the President may by rule determine.

(3) It shall be the duty of the Commission—

(a) to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution.

(b) to submit to the President, at such intervals as he may direct, reports upon the working of those safeguards;

(c) to make in such reports such recommendations as the Commission may deem fit as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards; and

(d) to discharge such other functions in relation to the protection and advancement of the Scheduled Castes and Scheduled Tribes as the President may by rule specify.

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

Minorities  
Commission.

- 338A. (1) There shall be a Commission for the minorities to be known as the Minorities Commission.
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission

shall consist of such person or persons as the President may appoint and the conditions of service and tenure of office of the person or persons so appointed shall be such as the President may by rule determine.

(3) It shall be the duty of the Commission—

(a) to investigate all matters relating to the safeguards provided for the minorities under this Constitution;

(b) to submit to the President, at such intervals as he may direct, reports upon the working of those safeguards;

(c) to make in such reports such recommendations as the Commission may deem fit as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards; and

(d) to discharge such other functions in relation to the protection of the minorities as the President may by rule specify.

(4) 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 recommendation.

(5) 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 such recommendation.”.

Omission  
of article  
350B.

3. Article 350B of the Constitution shall be omitted.

### **Bill No. 124 of 1978**

#### **THE CONSTITUTION (FORTY-SEVENTH AMENDMENT) BILL, 1978**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Forty-seventh Amendment) Act, 1978.

Amend-  
ment of  
article  
239A.

2. In article 239A of the Constitution, in clause (1), in the opening paragraph, after the words “Union territories of”, the word “Delhi”, shall be inserted.

### **Bill No. 30 of 1979**

#### **THE CONSTITUTION (FORTY-NINTH AMENDMENT) BILL, 1979**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Forty-ninth Amendment) Act, 1979.

## 2. In article 269 of the Constitution,—

(a) in clause (1), after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) 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”.

(b) in clause (3), for the words “sale or purchase of goods” the words “sale or purchase of, or consignment of goods” shall be substituted.

## 3. In article 286 of the Constitution, for clause (3), the following clause shall be substituted, namely:—

“(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,—

(a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or

(b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366;

be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify”.

Amend-  
ment of  
article  
269.

Amend-  
ment of  
article  
286.

Amend-  
ment of  
article  
366.

4. In article 366 of the Constitution, after clause (29), the following clause shall be inserted, namely:—  
(29A) “tax on the sale or purchase of goods” includes—
  - (a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
  - (b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
  - (c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;
  - (d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
  - (e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
  - (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;’.

5. In the Seventh Schedule to the Constitution, in List 1—Union List, after entry 92A, the following entry shall be inserted, namely:—

“92B. 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”.

6. (1) For the purposes of every provision of the Constitution in which the expression “tax on the sale or purchase of goods” occurs, and for the purposes of any law passed or made, or purporting to have been passed or made, before the commencement of this Act, in pursuance of any such provision,—

(a) the said expression shall be deemed to include, and shall be deemed always to have included, a tax (hereafter in this section referred to as the aforesaid 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) for cash, deferred payment or other valuable consideration; and

(b) every transaction by way of supply of the nature referred to in clause (a) made before such commencement shall be deemed to be and shall be deemed always to have been, a transaction by way of sale, with respect to which the person making such supply is the seller and the person to whom such supply is made, is the purchaser,

Amend-  
ment of  
Seventh  
Schedule.

Validation  
and  
exemption.

and notwithstanding any judgement, decree or order of any court, tribunal or authority, no law which was passed or made before such commencement and which imposed or authorised the imposition of, or purported to impose or authorise the imposition of, the aforesaid tax, shall be deemed to be invalid or ever to have been invalid on the ground merely that the Legislature or other authority passing or making such law did not have competence to pass or make such law, and accordingly—

- (i) all the aforesaid taxes levied or collected or purporting to have been levied or collected under any such law before the commencement of this Act shall be deemed always to have been validly levied or collected in accordance with law;
  - (ii) no suit or other proceeding shall be maintained or continued in any court or before any tribunal or authority for the refund of, and no enforcement shall be made by any court, tribunal or authority of any decree or order directing the refund of, any such aforesaid tax which has been collected;
  - (iii) recoveries shall be made in accordance with the provisions of such law of all amounts which would have been collected thereunder as such aforesaid tax if this section had been in force at all material times.
- (2) Notwithstanding anything contained in subsection (1), any supply of the nature referred

to therein shall be exempt from the aforesaid tax—

- (a) where such supply has been made, by any restaurant or eating house (by whatever name called), at any time on or after the 7th day of September, 1978 and before the commencement of this Act and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time; or
- (b) where such supply, not being any such supply by any restaurant or eating house (by whatever name called), has been made at any time on or after the 4th day of January, 1972 and before the commencement of this Act and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time:

Provided that the burden of proving that the aforesaid tax was not collected on any supply of the nature referred to in clause (a) or, as the case may be, clause (b), shall be on the person claiming the exemption under this sub-section.

(3) For the removal of doubts, it is hereby declared that,—

- (a) nothing in sub-section (1) shall be construed as preventing any person—
  - (i) from questioning in accordance with the provisions of any law referred to in that sub-section, the assessment,

reassessment, levy or collection of the aforesaid tax, or

- (ii) from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under any such law; and
- (b) no act or omission on the part of any person, before, the commencement of this Act, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

**Bill No. 77 of 1979**

**THE CONSTITUTION (FIFTIETH AMENDMENT)  
BILL, 1979**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

- |   |   |
|---|---|
| Short title.                              | 1. This Act may be called the Constitution (Fiftieth Amendment) Act, 1979.  |
| Amend-<br>ment of<br>Seventh<br>Schedule. | <p>2. In the Seventh Schedule to the Constitution,—</p> <p>(a) in <b>List II-State List</b>, in entry 15, after the words “prevention of animal diseases”, the words, figures and letter “subject to the provisions of entry 17C of List III” shall be inserted;</p> <p>(b) in <b>List III-Concurrent List</b>, after entry 17B, the following entry shall be inserted, namely:—</p> <p>“17C. Prohibiting the slaughter of cows and calves and other milch and draught cattle”.</p> |

**Bill No. 145 of 1982****THE CONSTITUTION (FORTY-SEVENTH  
AMENDMENT) BILL, 1982***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Thirty-third year of the Republic of India as follows:—

- |  |                                      |
|--|--------------------------------------|
| 1. (1) This Act may be called the Constitution (Forty-seventh Amendment) Act, 1982.<br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.  | Short title and commen-<br>cement.   |
| 2. (1) In article 330 of the Constitution, in clause (1), for sub-clause (b), the following sub-clause shall be substituted, namely:—<br>“(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and”.<br>(2) The amendment made to article 330 of the Constitution by sub-section (1) shall not affect any representation in the House of the People until the dissolution of the House of the People existing at the commencement of this Act. | Amend-<br>ment of<br>article<br>330. |
| 3. (1) In article 332 of the Constitution, in clause (1), for the words “except the Scheduled Tribes in the tribal areas of Assam, in Nagaland and in Meghalaya”, the words “except the Scheduled Tribes in the autonomous districts of Assam” shall be substituted.<br>(2) The amendment made to article 332 of the Constitution by sub-section (1) shall   | Amend-<br>ment of<br>article<br>332. |

not affect any representation in the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya until the dissolution of the Legislative Assembly of the State of Nagaland or the Legislative Assembly of the State of Meghalaya existing at the commencement of this Act.

**Bill No. 45 of 1989**

**THE CONSTITUTION (SIXTY-THIRD AMENDMENT)  
BILL, 1989**

(As INTRODUCED IN LOK SABHA)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short title and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Sixty-third Amendment) Act, 1989.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
332.

2. (1) In article 332 of the Constitution, after clause (3A), the following clause shall be inserted, namely:—

“(3B) 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 2000, 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 (Sixty-third Amendment) Act, 1989, 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.”

(2) The amendment made to article 332 of the Constitution by sub-section (1) shall not affect any representation in the Legislative Assembly of the State of Tripura until the dissolution of the Legislative Assembly existing at the commencement of this Act.

**Bill No. 50 of 1989**

**THE CONSTITUTION (SIXTY-FOURTH AMENDMENT)  
BILL, 1989**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- |  |                                    |
|--|------------------------------------|
| 1. (1) This Act may be called the Constitution (Sixty-fourth Amendment) Act, 1989.<br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | Short title and commen-<br>cement. |
| 2. After Part VIII of the Constitution, the following Part shall be inserted, namely:—   | Insertion of new Part IX.          |

**‘PART IX  
THE PANCHAYATS**

- |  |              |
|--|--------------|
| 243. In this Part, unless the context otherwise requires,— | Definitions. |
| (a) “district” means a revenue district in a State;        |              |

- (b) “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;
- (c) “Panchayat” means an institution (by whatever name called) of self-government for the rural areas at the village level or at the intermediate level or at the district level;
- (d) “Panchayat area” means the territorial area of a Panchayat;
- (e) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (f) “village” means a village specified by the Governor by public notification to be a village for the purposes of this Part.

Constitu-  
tion of  
Panchayats.

243A. (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.

Composi-  
tions of  
Panchayats.

243B. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provision with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any

level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) Save as provided in clause (3), 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, in such manner and subject to such conditions as may be specified in such law,—

(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.

(4) The Chairperson of a Panchayat and other members of a Panchayat chosen by

direct election from territorial constituencies in the Panchayat area shall alone have the right to vote in the meetings of the Panchayat.

(5) The Chairperson of—

(a) a Panchayat at the village level shall be chosen by election in such manner as the Legislature of the State may, by law, provide; and

(b) a Panchayat at the intermediate or district level shall be elected by, and from amongst, the elected members thereof.

(6) Where the Chairperson of a Panchayat has been elected by, and from amongst, the elected members of the Panchayat, no resolution by the Panchayat for removing him from the office of the Chairperson shall be valid and effective unless such resolution has been passed by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of such members present and voting.

Reserva-  
tion of  
seats.

243C. (1) Seats shall be reserved for the Scheduled Castes and 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 the Panchayat area bears to the total population of that area:

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes, in a Panchayat area is not

sufficient for reservation of any seat, one seat for the Scheduled Castes or, as the case may be, one seat for the Scheduled Tribes shall be reserved in that Panchayat.

(2) As nearly as may be, thirty per cent. 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:

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women, belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Nothing in this Part shall prevent the Legislature of a State from providing for the reservation of the office of Chairpersons in the Panchayats for the Scheduled Castes, the Scheduled Tribes and women.

(4) The reservation of seats under clause (1) and clause (2) and the reservation of office of Chairpersons (other than the reservation for women) referred to in clause (3), if any, shall have effect till the expiration of the period specified in article 334 and the proviso thereto shall, so far as may be, apply to such reservations.

(5) As nearly as may be, thirty per cent (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 allotted by rotation to different constituencies in a Panchayat.

Duration  
of  
Panchayats,  
etc.

243D. (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 and the expiration of the said period of five years shall operate as a dissolution of that Panchayat.

(2) Where a Panchayat is dissolved before the expiration of its duration, an election to constitute the Panchayat shall be completed, as soon as may be, and in any case before the expiration of the period of six months from the date of such dissolution.

(3) 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 and, if such period is less than six months, it shall not be necessary to hold any election under clause (2) for constituting the Panchayat.

Powers,  
authority  
and  
responsi-  
bilities of  
Panchayats.

243E. 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.

243F. 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.

243G. (1) The Governor of a State shall, as soon as may be within two years from the commencement of the Constitution (Sixty-fourth Amendment) Act, 1989, 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 determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by the Panchayats;

Power to impose taxes by, and Funds of the Panchayats.

Appointment of Finance Commission to review financial position.

(ii) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees which are to be, or may be, divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) 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, determine the qualifications which shall be requisite for appointment as members of the Commission 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 Finance Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243H. (1) The accounts of the Panchayats shall be kept in such form as the Governor may, on the advice of the Comptroller and Auditor-General of India, prescribe.

Form of  
accounts of  
Panchayats  
and audit of  
accounts of  
Panchayats.

(2) The Comptroller and Auditor-General of India shall cause the accounts of the Panchayats to be audited in such manner as he may deem fit and the reports of the Comptroller and Auditor-General shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

243-I. 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 the Election Commission.

Superin-tendence, direction and control of elections to the Panchayats to be vested in the Election Commis-sion.

243J. Subject to the provisions of this Part, 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, elections to the Panchayats including the preparation of electoral rolls, the manner in which the electoral rolls for the time being in force for the territorial constituencies referred to in article 325 may be used for such preparation, the delimitation of constituencies and all other matters necessary for securing the due constitution of such Panchayats.

Powers of Legislature of a State to make provisions with respect to elections to Panchayats.

243K. (1) 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

Applica-tion to Union territories.

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 Union territory having a Legislative Assembly, to that Legislative Assembly.

(2) Notwithstanding anything in clause (1), the President may, by public notification, direct that the provisions of this Part shall not apply to any Union territory or any part thereof or shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply to certain States and areas.

243L. (1) Nothing in this Part shall apply to—

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Scheduled Areas referred to in clause (1) and the tribal areas referred to in clause (2) of article 244;

(c) the Hill Areas in the State of Manipur for which District Councils exist, and the Hill Areas of the District of Darjeeling in the State of West Bengal for which the Darjeeling Gorkha Hill Council exists, under any law for the time being in force.

(2) Notwithstanding anything in this Constitution,—

(a) the Legislature of a State referred to in sub-clause (a) of clause (1) may, by law, extend this Part to that State, except the tribal areas, if any, referred to in

sub-clause (b) of 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) the Governor of a State may, in his discretion and subject to such exceptions and modifications as he may specify by public notification, extend this Part to the Scheduled Areas, referred to in clause (1) of article 244, comprised within that State.

243M. Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force immediately before the commencement of the Constitution (Sixty-fourth Amendment) Act, 1989, 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.

3. After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:—

Continuance of existing laws and Panchayats.

Addition of Eleventh Schedule.

**ELEVENTH SCHEDULE**

(Article 243E)

1. Agriculture, including agricultural extension.
2. Land improvement 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 programmes.
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 Scheduled Tribes.
  - 28. Public distribution system.
  - 29. Maintenance of community assets.

**Bill No. 60 of 1989**

**THE CONSTITUTION (SIXTY-FIFTH AMENDMENT)  
BILL, 1989**

(As INTRODUCED IN LOK SABHA)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- |  |                                    |
|--|------------------------------------|
| 1. (1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1989.  | Short title and commen-<br>cement. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |                                    |
| 2. In Part IX of the Constitution, after Chapter I, the following Chapters shall be inserted, namely:—                     | Insertion of new Chapters II to V. |

## CHAPTER II—NAGAR PANCHAYATS

Constitu-  
tion etc.  
of Nagar  
Panchayats.

243N (1) There shall be constituted in every State 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, in accordance with the provisions of this Part.

(2) The Governor of a State may, having regard to the density of population, 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 an area with a population of about ten thousand or more but less than twenty thousand, to be a transitional area for the purposes of clause (1).

(3) Notwithstanding anything in clauses (1) and (2), the Governor may, by order, declare that any town committee, town area committee, notified area committee or any other similar body (by whatever name called) existing immediately before the commencement of the Constitution (Sixty-fifth Amendment) Act, 1989, in relation to an area having a population of less than ten thousand, shall be deemed to be a Nagar Panchayat for the purposes of this Part.

(4) The Legislature of a State may, by law, endow the Nagar Panchayats with such powers, authority and responsibilities referred to in article 243E and article 243U as may be specified in such law.

### CHAPTER III—MUNICIPALITIES

243-O. In this Part, unless the context Definitions. otherwise requires—

- (a) “Metropolitan area” means one or more contiguous agglomerations having a population of about twenty lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other adjoining areas, specified by the Governor of a State by public notification to be a Metropolitan area for the purposes of this Part;
- (b) “Municipal area” means the territorial area of a Municipality;
- (c) “Municipality”, that is to say, Nagarpalika, means an institution (by whatever name called) of self-government for the urban areas constituted in accordance with the provisions of article 243P, and includes a Nagar Panchayat.

243P. (1) There shall be constituted in every State, in accordance with the provisions of this Part,—

- (a) a Municipal Council for an urban area having a population of about twenty thousand or more but less than three lakhs;
- (b) a Municipal Corporation for an urban area having a population of about three lakhs or more.

(2) Notwithstanding anything in clause (1), the Governor of a State may, by order, declare that every Municipal Corporation existing immediately before the commencement of the

Constitu-  
tion of  
Munici-  
palities.

Constitution (Sixty-fifth Amendment) Act, 1989, in relation to an area having a population of less than three lakhs, shall be deemed to be a Municipal Corporation for the purposes of this Part.

(3) The Legislature of a State may, by law, notwithstanding anything in clause (1) and in clause (2) of article 243N, provide for the constitution of—

(a) a Nagar Panchayat for a transitional area having a population of less than ten thousand but not less than five thousand;

(b) a Municipal Council for an urban area having a population of less than twenty thousand but not less than ten thousand;

(c) a Municipal Corporation for an urban area having a population of less than three lakhs but not less than twenty thousand in the capital of a State,

where such area is in an island or a hilly or a desert terrain.

Composition of Municipalities.

243Q. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provision with respect to the composition of Municipalities.

(2) Save as provided in clauses (3), (4) and (5), all the seats in a Municipality shall be filled by persons chosen by direct election from territorial constituencies in the Municipal area and, for this purpose, each Municipal area shall be divided into territorial constituencies to be known as wards.

(3) Where Wards Committees are constituted within the territorial area of a Municipal

Council under article 243R, the Chairpersons of all such Wards Committees shall also be members of that Municipal Council.

(4) Where Zonal Committees are constituted within the territorial area of a Municipal Corporation under article 243S, the Chairpersons of all such Zonal Committees shall also be members of that Corporation.

(5) The Legislature of a State may, by law, provide for the representation, in a Municipality, of persons having special knowledge or experience of Municipal administration in such manner and subject to such conditions as may be specified in such law:

Provided that such persons shall not have the right to vote in the meetings of the Municipality.

(6) The Chairpersons of a Municipality shall be elected by, and from amongst, the elected members thereof.

(7) No resolution by a Municipality for removing the Chairperson of the Municipality from the office of the Chairperson shall be valid and effective unless such resolution has been passed by a majority of the total number of the elected members of the Municipality and by a majority of not less than two-thirds of such members present and voting.

243R. (1) There shall be constituted in every State, in accordance with the provisions of this Part, Wards Committees (by whatever name called) within the territorial area of a Municipality having a population of one lakh or more.

Constitu-  
tion and  
composi-  
tion of  
Wards  
Commit-  
tees.

(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:

Provided that the territorial area of a Wards Committee shall,

(i) in the case of Municipal Council comprise two or more wards; and

(ii) in the case of a Municipal Corporation, comprise one or more wards;

(b) the manner in which the seats in a Wards Committee shall be filled by persons chosen by direct election from the territorial area of the Wards Committee.

(3) Notwithstanding anything in clause (1), Wards Committees may not be constituted within the territorial area of a Municipal Corporation referred to in clause (2) of article 243P.

(4) Every member representing a ward in a Municipal area comprised within the territorial area of a Wards Committee shall be a member of that Committee.

(5) The Chairperson of a Wards Committee shall be elected by, and from amongst, the members thereof.

Constitution and composition of Zonal Committees.

243S. (1) There shall be constituted in every State, in accordance with the provisions of this Part, at a level between the Wards Committees and the Municipal Corporation, Zonal Committees (by whatever name called) within the territorial area of a Municipal Corporation.

(2) The Legislature of a State may, by law, make provision with respect to the territorial area of a Zonal Committee.

(3) Notwithstanding anything in clause (1), Zonal Committees may not be constituted within the territorial area of a Municipal Corporation referred to in clause (2) of article 243P.

(4) The Chairpersons of all the Wards Committees comprised within the territorial area of a Zonal Committee shall be members of that Committee.

(5) The Chairperson of a Zonal Committee shall be elected by, and from amongst, the members thereof.

243T. (1) The provisions of articles 243C, 243D, 243H, 243-I, 243J and 243K shall, so far as may be, apply in relation to Municipalities and Wards Committees as they apply in relation to Panchayats. Application of certain articles of Chapter I to Municipalities, etc.

(2) The provisions of article 243C shall, so far as may be, apply in relation to the Committees constituted under article 243Y and article 243Z as they apply in relation to Panchayats:

Provided that the reservation of seats in such Committees shall be determined with reference to the district as a whole and not separately with reference to the Panchayats and Municipalities.

(3) The provisions of article 243F shall, so far as may be, apply in relation to Municipalities, as they apply in relation to Panchayats.

(4) The provisions of article 243H and 243K shall, so far as may be, apply in relation to Zonal Committees as they apply in relation to Panchayats.

Powers,  
authority  
and  
responsi-  
bilities of  
Munici-  
palities,  
etc.

243U. 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 Wards Committees or, as the case may be, the Zonal 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.

Finance  
Commis-  
sion.

243V. (1) The Finance Commission referred to in clause (2) shall review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

- (i) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
  - (ii) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tools and fees which are to be, or may be, divided between them under this Part and the allocation between the Municipalities of their respective shares of such proceeds;
  - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- (b) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the municipalities.
- (2) The Finance Commission constituted under article 243G shall be the Finance Commission for the purposes of clause (1).
- (3) The Governor shall cause every recommendation made by the Finance Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.
- 243W. (1) Nothing in Chapters II to V shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.
- (2) Notwithstanding anything in this Constitution, the Governor of a State may, in

Chapters  
II to V  
not to  
apply to  
certain  
areas.

his discretion and subject to such exceptions and modifications as he may specify, by public notification, extend Chapters II to V to the Scheduled Areas referred to in clause (1), or the tribal areas referred to in clause (2), of article 244, comprised within that State.

Continuance of existing laws and Municipalities, etc.

243X. Notwithstanding anything in this Part, any provision of any law relating to Municipalities, Wards Committees and Zonal Committees in force immediately before the commencement of the Constitution (Sixty-fifth Amendment) Act, 1989, 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, Wards Committees and Zonal Committees 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.

## CHAPTER IV

### PLANNING

District planning.

243Y. (1) Subject to the provisions of clause (2), the Governor of a State shall by public notification constitute a Committee in every Panchayat at the district level, 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 Committee shall consist of such number of persons not exceeding twenty-one as the Governor may, by order, specify and the members of the Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and the Municipalities in the district in proportion to the ratio between the population of the Panchayat at the district level and of the Municipalities in the district.

(3) The Chairperson of the Panchayat at the district level shall be the Chairperson of the Committee.

(4) The term of office of a member of the Committee shall come to an end as soon as he ceases to be a member of the Panchayat at the district level or, as the case may be, the Municipality from which he was elected.

(5) The 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 overall objectives and priorities set by the Government of India and the Government of the State;

- (iii) the extent and type of available resources, whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may, by order, specify.

(6) The Chairperson of the Committee shall forward the development plan, as recommended by the Committee, to the Government of the State.

Metropoli-  
tan  
planning.

243Z. (1) Subject to the provisions of clause (2), the Governor of a State shall by public notification constitute a Committee in every Metropolitan area to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Committee shall consist of such number of persons not exceeding thirty-one as the Government may, by order, specify, of whom,—

(a) two-thirds of the members 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; and

(b) the rest shall be such persons and such representatives of the Government of India and the Government of the State and of such organisations and institutions, as the Governor may in such order specify.

(3) The Chairperson of the Committee shall be appointed by the Governor.

(4) The term of office of an elected member of the Committee shall come to an end as soon as he ceases to be a member of the Municipality or, as the case may be, the Panchayat from which he was elected.

(5) The Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investment likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State;

(v) the extent and type of available resources, whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(6) The Chairperson of the Committee shall forward the development plan, as recommended by the Committee, to the Government of the State.

## CHAPTER V.—MISCELLANEOUS

Elections  
to  
Panchayats,  
Muni-  
cipali-  
ties,  
etc. to be  
held  
simulta-  
neously.

Disqualifi-  
cations for  
mem-  
ber-  
ship.

243ZA. Elections to the Panchayats, Municipalities and Wards Committees in every State shall be held simultaneously.

243ZB. (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat or Municipality or Wards Committee—

- (a) if he holds any office of profit under the Government of India or the Government of any State, or a Panchayat or Municipality or Wards Committee or Zonal Committee in a State, 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 acknowledgement of allegiance or adherence to a foreign State;
- (e) 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;
- (f) 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 or Municipality or Wards Committee has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of the Governor and his decision shall be final.

(3) 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.

243ZC. 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 243J or under article 243T, shall not be called in question in any court;

(b) no election to any Panchayat or Municipality or Wards Committee 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 Legislature of a State.

3. After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:—

Bar to  
interfer-  
ence by  
courts in  
electoral  
matters.

Addition  
of Twelfth  
Schedule.

## TWELFTH SCHEDULE

(Article 243U)

1. Public health.
2. Sanitation, including conservancy services, public conveniences, solid waste collection and disposal and recycling of waste water.

3. Drainage, sewerage and sewage disposal.
4. Hospitals, primary health centres and dispensaries.
5. Veterinary services.
6. Burials and burial grounds; cremations and cremation grounds.
7. Pounds and the prevention of cattle trespass, prevention of cruelty to animals.
8. Vital statistics including registration of births and deaths.
9. Prevention of adulteration of foodstuffs and other goods.
10. Communications, including roads, bridges, ferries, municipal tramways, ropeways and inland waterways.
11. City passenger transport and other vehicles, whether propelled mechanically or otherwise.
12. Maintenance of community assets.
13. Works, lands and buildings vested in or in the possession of the Municipalities.
14. Fire services.
15. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
16. Social welfare, including welfare of the handicapped and mentally retarded.
17. Women and child development.
18. Family welfare.
19. Education, including primary and secondary schools.
20. Technical training and vocational education.
21. Adult and non-formal education.
22. Libraries, museums and other similar institutions.

23. Water supplies for drinking, industrial and commercial purposes.
24. Urban electrification, including distribution of electricity.
25. Non-conventional energy sources.
26. Town planning, including heritage conservation, urban arts and aesthetics.
27. Urban housing.
28. Parks, play grounds and recreational facilities.
29. Regulation and promotion of land use and buildings.
30. Slum improvement.
31. Urban forestry.
32. Investment, promotion and development of industrial and commercial estates.
33. Urban poverty alleviation programmes.
34. Public distribution system.
35. Cultural activities.
36. Licensing of theatres and dramatic performances.
37. Pilgrimages.

**Bill No. VI of 1990****THE CONSTITUTION (SIXTY-FOURTH AMENDMENT)  
BILL, 1990***(As INTRODUCED IN RAJYA SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution Short title. (Sixty-fourth Amendment) Act, 1990.

Amend-  
ment of  
article  
356.

2. In article 356 of the Constitution:—

- (a) in clause (4), after the second proviso, the following proviso shall be inserted, namely:—

“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 “four years.””

- (b) in clause (5), the following proviso shall be inserted at the end, namely:—

“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.”

**Bill No. 93 of 1990**

**THE CONSTITUTION (SIXTY-SEVENTH AMENDMENT) BILL, 1990**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and Commencement.

1. (1) This Act may be called the Constitution (Sixty-seventh Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article 124.

2. In article 124 of the Constitution, in clause (2),—

(a) for the portion beginning with the words “after consultation with such of the Judges of the Supreme Court” and ending with the words “Provided further”, the following shall be substituted, namely:—

“on the recommendation of the National Judicial Commission and shall hold office until he attains the age of sixty-five years:

Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing:

Provided further that the Chief Justice of India shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose:

Provided also”;

(b) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—Nothing in the first proviso to this clause shall be construed as empowering the President to appoint any person as a Judge of the Supreme Court unless he is recommended by the National Judicial Commission for such appointment.”

3. In article 217 of the Constitution, in clause (1),—
- (a) for the portion beginning with the words “after consultation with the Chief Justice of India” and ending with the words
- Amend-  
ment of  
article  
217.

“Provided that”, the following shall be substituted, namely:—

“on the recommendation of the National Judicial Commission and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-two years:

Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing:

Provided further that”;

(b) the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—Nothing in the first proviso to this clause shall be construed as empowering the President to appoint any person as a Judge of any High Court unless he is recommended by the National Judicial Commission for such appointment.”.

4. In article 222 of the Constitution, in clause (1),—

(a) for the words “after consultation with the Chief Justice of India”, the words “on the recommendation of the National Judicial Commission” shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

“Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing”.

5. In article 231 of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—

“(a) the reference in sub-clause (b) of clause (3) of article 307A to the Chief Minister

Amend-  
ment of  
article  
222.

Amend-  
ment of  
article  
231.

of the concerned State shall be construed as a reference to the Chief Ministers of all the States in relation to which the High Court exercises jurisdiction;”.

6. After Part XIII of the Constitution, the following Part shall be inserted, namely:—

Insertion  
of new  
Part  
XIIIA.

### **PART XIIIA**

#### **NATIONAL JUDICIAL COMMISSION**

307. (1) The President shall by order constitute a Commission, referred to in this Constitution as the National Judicial Commission.

Constitu-  
tion of  
National  
Judicial  
Commis-  
sion and  
its  
functions.

(2) The National Judicial Commission shall make recommendations to the President as to the appointment of a Judge of the Supreme Court (other than the Chief Justice of India), a Judge of a High Court and as to the transfer of a judge from one High Court to any other High Court.

(3) The National Judicial Commission shall,—

(a) for making recommendation as to the appointment of a Judge of the Supreme Court (other than the Chief Justice of India), a Chief Justice of a High Court and as to the transfer of a Judge from one High Court to any other High Court, consist of—

(i) the Chief Justice of India, who shall be the Chairperson of the Commission; and

- (ii) two other Judges of the Supreme Court next to the Chief Justice of India in seniority;
- (b) for making recommendation as to the appointment of a Judge of any High Court, consist of—
  - (i) the Chief Justice of India, who shall be the Chairperson of the Commission;
  - (ii) the Chief Minister of the concerned State or, if a Proclamation under article 356 is in operation in that State the Governor of that State;
  - (iii) one other Judge of the Supreme Court next to the Chief Justice of India in seniority;
  - (iv) the Chief Justice of the High Court, and
  - (v) one other Judge of the High Court next to the Chief Justice of that High Court in seniority.
- (4) Subject to the provisions of any law made by Parliament, the procedure to be followed by the National Judicial Commission in the transaction of its business shall be such as the President may, in consultation with the Chief Justice of India, by rule determine.
- (5) The National Judicial Commission shall have a separate secretarial staff and their conditions of service shall be such as the President may, in consultation with the Chief Justice of India, by rule determine”.

**Bill No. 101 of 1990****THE CONSTITUTION (SIXTY-NINTH AMENDMENT)  
BILL, 1990***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Sixty-ninth Amendment) Act, 1990. Short title and commen-  
cement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In article 332 of the Constitution, after clause (3A), the following clause shall be inserted, namely:— Amend-  
ment of  
article  
332.

“(3B) Notwithstanding anything contained in clause (3), until the readjustment, under article 170, takes effect on the basis of the first census after the year 2000, 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 (Sixty-ninth Amendment) Act, 1990 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.”.

(2) The amendment made to article 332 of the Constitution by sub-section (1) shall not

affect any representation in the Legislative Assembly of the State of Tripura until the dissolution of the Legislative Assembly existing at the commencement of this Act.

**Bill No. XXVI of 1990**

**THE CONSTITUTION (SEVENTIETH AMENDMENT)  
BILL, 1990**

(As INTRODUCED IN RAJYA SABHA)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Seventieth Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
324.

2. In article 324 of the Constitution,—

(a) in clause (2), for the words, “subject to the provisions of any law made in that behalf by Parliament, be made by the President”, the following shall be substituted, namely:—

“be made by the President after consultation with the Chairman of the Council of States, the Speaker of the House of the People and the Leader of the Opposition in the House of the People recognised as such under any law made in this behalf by Parliament and if there is no such Leader of the Opposition, the leader of the party in opposition to the

Government having the greatest numerical strength in that House:

Provided that in the case of appointment of other Election Commissioners, the Chief Election Commissioner shall also be consulted.”;

(b) clause (6) shall be re-numbered as clause (10) and before clause (10), as so re-numbered, the following clauses shall be inserted, namely:—

“(6) The Chief Election Commissioner or other Election Commissioner shall not be eligible for further office under the Government of India or under the Government of any State or for the office of the Governor of a State or the Administrator of a Union territory after he has ceased to hold his office:

Provided that an Election Commissioner shall be eligible for appointment as the Chief Election Commissioner.

(7) The Election Commission shall have a separate secretarial staff.

(8) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Election Commission.

(9) Until provision is made by Parliament under clause (8), the President may, after consultation with the Election Commission, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Election Commission, and any rules so made shall have effect subject to the provisions of any law made under the said clause.”

**Bill No. XXVII of 1990****THE CONSTITUTION (SEVENTY-FIRST AMENDMENT)  
BILL, 1990***(As INTRODUCED IN RAJYA SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first  
Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

Amend-  
ment of  
article 81.

Amend-  
ment of  
article 82.

1. (1) This Act may be called the Constitution (Seventy-first Amendment) Act, 1990.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 81 of the Constitution, in the proviso to clause (3), for the words and figures “be construed as a reference to the 1971 census”, the following shall be substituted, namely:—  
 “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 1981 census”.
3. In article 82 of the Constitution, in the third proviso, for the words “readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article”, the following shall be substituted, namely:—  
 “readjust—

- 
- (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 1981 census, under this article”.

4. In article 170 of the Constitution,—

Amend-  
ment of  
article  
170.

- (a) in clause (2), in the proviso to the *Explanation*, for the figures “1971”, the figures “1981” shall be substituted;
- (b) in the third proviso to clause (3), for the words “readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause”, the following shall be substituted, namely:—

“readjust—

- (i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census;
- (ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 1981 census,

under this clause”.

5. In article 327 of the Constitution, after the words “delimitation of constituencies”, the words “including rotation of constituencies reserved for the Scheduled Castes” shall be inserted.

Amend-  
ment of  
article  
327.

**Bill No. 107 of 1990****THE CONSTITUTION (SEVENTY-SECOND  
AMENDMENT) BILL, 1990***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and commencement.

Insertion of new article 371J.

Special provision with respect to the Capital State of Delhi.

1. (1) This Act may be called the Constitution (Seventy-second Amendment) Act, 1990.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 371-I of the Constitution, the following article shall be inserted, namely:—

“371J. Notwithstanding anything in this Constitution,—

- (a) the Legislative Assembly of the Capital State of Delhi shall not have, but the Parliament shall have, power to make laws for the State or any part thereof with respect to any of the matters enumerated in entries 1 and 2 in the State List;
- (b) the Governor of the Capital State of Delhi shall have special responsibility with respect to law and order in that State and in the discharge of his functions in relation thereto, the Governor shall exercise, subject to such general or special directions, if any, as may be given by the President, his individual judgement as to the action to be taken:

(c) the approval of the Governor of the Capital State of Delhi shall be obtained with respect to any matter relating to provision of municipal services required by the Union, the Delhi Urban Arts Commission and the preparation and finalisation of the Master Plan of Delhi, including any amendments thereto, and in the discharge of his functions in relation thereto, the Governor shall exercise, subject to such general or special directions, if any, as may be given by the President, his individual judgement 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 clause (b) or clause (c) required to act in the exercise of his individual judgement, 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 judgement.”.

3. In the First Schedule to the Constitution.—

(a) under the heading “I. THE STATES”, after entry 25, the following entry shall be inserted, namely:—

“26. Capital State of Delhi. The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner’s Province of Delhi.”;

(b) under the heading “II. THE UNION TERRITORIES”, entry 1 relating to Delhi shall be omitted and entries 2 to 7 shall be renumbered as entries 1 to 6 respectively.

Amend-  
ment of  
the First  
Schedule.

Amend-  
ment of  
the Fourth  
Schedule.

4. In the Fourth Schedule to the Constitution, in the Table, for entry 26, the following entry shall be substituted, namely:—
- “26. Capital State of Delhi.....3.”.

**Bill No. 128 of 1990**

**THE CONSTITUTION (SEVENTY-THIRD  
AMENDMENT) BILL, 1990**

(*AS INTRODUCED IN LOK SABHA*)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Seventy-third Amendment) Act, 1990.

Amend-  
ment of  
the Ninth  
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 257 and before the *Explanation*, the following entry shall be inserted, namely:—

“258. The Handlooms (Reservation of Articles for Production) Act, 1985 (Central Act 22 of 1985).”

**Bill No. 156 of 1990**

**THE CONSTITUTION (SEVENTY-FOURTH  
AMENDMENT) BILL, 1990**

(*AS INTRODUCED IN LOK SABHA*)

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1990.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. After Part VII of the Constitution, the following Part shall be inserted, namely:—
- Insertion of new Part IX.

**PART IX**  
**THE LOCAL AUTHORITIES**  
**CHAPTER I.—GENERAL**

243. In this Part, unless the context otherwise requires,—

- (a) “Committee” means a Committee constituted under article 243F;
- (b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of a Panchayat at the village level;
- (c) “Local Authority” means an institution of self-government constituted under article 243B or, as the case may be, under article 243D;
- (d) “Municipal area” means the territorial area of a Municipality;
- (e) “Municipality” means an institution (by whatever name called) of self-government constituted under article 243D;
- (f) “Panchayat” means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;
- (g) “Panchayat area” means the territorial area of a Panchayat;

- (h) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (i) “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.

## CHAPTER II.—THE PANCHAYATS

Powers of  
a Gram  
Sabha.

243A. A Gram Sabha may exercise such powers at the village level as the Legislature of a State may, by law, provide.

Constitu-  
tion of  
Panchayats.

243B. (1) There shall be constituted in every State Panchayats at the village level in accordance with the provisions of this Part.

(2) The Legislature of a State may, by law, provide for the constitution of Panchayats at other level or levels in accordance with the provisions of this Part.

Composi-  
tion of  
Panchayats.

243C. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats.

(2) All the seats in a Panchayat at the village level and not less than fifty per cent. of the seats in a Panchayat at any other level, if any, shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation, in such manner and subject to such conditions as may be specified in such law, of the Chairpersons of the Panchayats at the village level or of the

Panchayats, if any, at any other level in the Panchayats at the immediately next higher level.

(4) The Chairperson of a Panchayat shall be chosen by election in such manner as the Legislature of a State may, by law, provide.

### CHAPTER III.—THE MUNICIPALITIES

243D. (1) There shall be constituted in every State—Constitu-  
tion of  
Muni-  
cipalities.

- (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.

(2) In this article, “a transitional area”, “a smaller urban area” and “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.

234E. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provision with respect to the composition of Municipalities.Composi-  
tion of  
Muni-  
cipalities.

(2) Save as provided in clause (3), all the seats in a Municipality shall be filled by persons chosen by direct election from territorial constituencies in the Municipal area and, for this purpose, each Municipal area shall be divided into territorial constituencies to be known as wards.

(3) The Legislature of a State may, by law, provide for the representation, in a Municipal Corporation, of the Chairpersons of Committees constituted at the ward or other level or levels under article 245F in such manner and subject to such conditions as may be specified in such law.

(4) The Chairperson of a Municipality shall be chosen by election in such manner as the Legislature of a State may, by law, provide.

243F. The Legislature of a State may, by law, provide for the constitution of Committees at the ward level or other level or levels within the territorial area of a Municipal Corporation and such law may contain provisions with respect to—

- (a) the composition and the territorial area of such Committees;
- (b) the manner in which the seats in such Committees shall be filled;
- (c) the powers and functions of the Municipal Corporation which may be delegated to such Committees;
- (d) the manner in which the Chairpersons of such Committees shall be elected.

Constitution and composition of Committees at ward level and other levels.

## CHAPTER IV.—MISCELLANEOUS

243G. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Panchayat and 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 election in that Panchayat or Municipality, as the population of the Scheduled Castes in that Panchayat area or Municipal area, or of the Scheduled Tribes in that Panchayat area or Municipal area bears to the total population of that area.

Reservation of seats.

(2) 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 election in every Panchayat or Municipality, shall be reserved for women and allotted by rotation to different constituencies in a Panchayat or Municipality.

(3) The reservation of seats under clause (1) shall cease to have effect on the expiration of the period specified in article 334.

(4) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or Municipality in favour of any backward class of citizens.

243H. Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

Powers, authority, etc., of Local Authorities.

(a) the Local Authorities with such powers and authority (including the powers and authority (including the power to levy,

collect and appropriate taxes, duties, tolls and fees in accordance with such procedures and limits as may be specified in such law) as may be necessary to enable them to function as institutions of self-government.

(b) the Committees constituted under article 243F with such powers and authority as may be necessary to enable them to carry out the irresponsibilities.

Duration  
of the  
Local  
Authori-  
ties.

243-I. (1) Every Local Authority, unless 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 and the expiration of the said period of five years shall operate as a dissolution of that Local Authority.

(2) Where a Local Authority is dissolved before the expiration of its duration, an election to constitute the Local Authority shall be completed, as soon as may be, and in any case, before the expiration of a period of six months from the date of such dissolution:

Provided that if the remainder of the period for which the dissolved Local Authority would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Local Authority.

(3) The Local Authority constituted upon the dissolution of a Local Authority before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Local Authority would have continued under clause (1) had it not been so dissolved.

243J. (1) There shall be constituted in every State a Finance Commission, as soon as may be within one year from the commencement of the Constitution (Seventy-fourth Amendment) Act, 1990, and thereafter at the expiration of every fifth year, to review the financial position of the Local Authorities and to make recommendations to the Government of the State as to—

Constitu-tion of Finance Commis-sion to review financial position.

- (a) the principles which should govern—
  - (i) the distribution between the State and the Local Authorities 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 Local Authorities 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 Local Authorities;
  - (iii) the grants-in-aid to the Local Authorities from the Consolidated Fund of the State;
- (b) any other matter referred to the Finance Commission by the Government of the State in the interest of sound finance of the Local Authorities.

(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 recommendations made by the Finance Commission shall be laid, as soon as may be after they are made, by the Government of the State before the Legislature of the State together with an explanatory memorandum as to the action taken thereon.

Powers of  
Legislature  
of a State to  
make  
provisions  
with respect  
to elections  
to Local  
Authorities.

Application  
to Union  
Territories.

243K. 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 Local Authorities.

243L. (1) 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.

(2) Notwithstanding anything in clause (1), the President may, by public notification, direct that the provisions of this Part shall not apply to any Union territory or any part thereof or shall apply to any Union territory or part thereof subject to such exceptions and

modifications as he may specify in the notification.

243M. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

Part not to apply to certain areas.

(2) Nothing in this Part, in so far as it relates to Panchayats, shall apply to—

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Hill Areas in the State of Manipur for which District Council exist, and the Hill Areas of the District of Darjeeling in the State of West Bengal for which the Darjeeling Gorkha Hill Council exists, under any law for the time being in force.

(3) 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 in so far as it relates to Panchayats 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.

Continuance of existing laws and Local Authorities.

243N. Notwithstanding anything in this Part, any provision of any law relating to Local Authorities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1990 which is inconsistent with the provisions of this Part, shall continue to be in force until the expiration of one year from such commencement or until the expiration of the longest duration of the Panchayats, at any level, or any Municipality, as the case may be, existing in that State immediately before such commencement, whichever is later:

Provided that all the Local Authorities 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.

Disqualifications for membership.

243-O. (1) A person shall be disqualified for being chosen as, and for being, a member of a Local Authority or a Committee—

- (a) if he holds any office of profit under the Government of India or the Government of any State, or a Local Authority or a Committee in a State, 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 acknowledgement of allegiance or adherence to a foreign State;
- (e) 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;
- (f) 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 Local Authority or a Committee has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of the Governor and his decision shall be final.

243P. Notwithstanding anything in this Constitution,—

- (a) the validity of any law relating to the Bar to delimitation of constituencies or the allotment of seats to such constituencies, interference by courts in electoral made or purporting to be made under article 243K, shall not be called in question in any court;
- (b) no election to any Local Authority or Committee 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 Legislature of a State.

**Bill No. 158 of 1990****THE CONSTITUTION (SEVENTY-FIFTH AMENDMENT) BILL, 1990***(AS INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

- |                           |  |
|---------------------------|--|
| Short title.              | 1. This Act may be called the Constitution (Seventy-fifth Amendment) Act, 1990.  |
| Amendment of article 356. | 2. In article 356 of the Constitution, in clause (4), in the third proviso, for the words “three years and six months”, the words “four years” shall be substituted. |

**Bill No. 73 of 1993****THE CONSTITUTION (EIGHTIETH AMENDMENT) BILL, 1993***(AS INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

- |                               |   |
|-------------------------------|---|
| Short title and commencement. | 1. (1) This Act may be called the Constitution (Eightieth Amendment) Act, 1993.<br><br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |
| Insertion of new article 28A. | 2. In Part III of the Constitution, after article 28 and before the heading “ <i>Cultural and Educational Rights</i> ”, the following article shall be inserted, namely:—   |

“28A. The State shall have equal respect for all religions.”.

State to have equal respect for all religions.

3. In Part III of the Constitution, after article 35, the following article shall be inserted, namely:—
- “35A. Notwithstanding anything in this Constitution,—
- (a) Parliament may, by law, provide that any association or body of individuals be banned, if it, by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will between different classes of citizens of India—
    - (i) on around of religion; or
    - (ii) on grounds of race, place of birth, residence, language, caste or community;  - (b) the law referred to in clause (a) may make provisions for the forfeiture of property, movable or immovable, of the banned association or union and such other incidental or consequential provisions as Parliament may think fit;
  - (c) the Supreme Court shall, to the exclusion of any other court, have jurisdiction in respect of any matter arising under the law referred to in clause (a).”.
4. In article 102 of the Constitution, in clause (1), after sub-clause (d), the following sub-clauses shall be inserted, namely:—
- Insertion of new article 35A.
- Legislation to declare certain associations as banned on certain grounds.
- Amendment of article 102.

“(da) if he, after making and subscribing the oath or affirmation in accordance with the form set out for the purpose in the Third Schedule for election to Parliament, makes use of religion, including religious symbols, for the purposes of the said election;

(db) if he promotes or attempts to promote feelings of enmity or hatred or ill-will between different classes of citizens of India on grounds of religion, race, caste, community or language;”.

5. In article 191 of the Constitution, in clause (1), after sub-clause (d), the following sub-clauses shall be inserted, namely:—

“(da) if he, after making and subscribing the oath or affirmation in accordance with the form set out for the purpose in the Third Schedule for election to Legislature, makes use of religion, including religious symbols, for the purposes of the said election;

(db) if he promotes or attempts to promote feelings of enmity or hatred or ill-will between different classes of citizens of India on grounds of religion, race, caste, community or language;”.

6. In article 226 of the Constitution, in clause (1), after the word and figures “article 32”, the words, brackets, letters and figures “but subject to the provisions of clause (c) of article 35A,” shall be inserted.

7. In the Ninth Schedule to the Constitution, after entry 257 and before the *Explanation*, the following entry shall be inserted, namely:—

“258. The Religious Institutions (Prevention of Misuse) Act, 1988 (Central Act 41 of 1988).”

Amend-  
ment of  
article  
191.

Amend-  
ment of  
article  
226.

Amend-  
ment of  
Ninth  
Schedule.

**Bill No. 88 of 1994****THE CONSTITUTION (EIGHTY-FOURTH  
AMENDMENT) BILL, 1994***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-fifth,  
Year of the Republic of India as follows:—

- |  |                                |
|--|--------------------------------|
| 1. (1) This Act may be called the Constitution (Eighty-Fourth Amendment) Act, 1994.<br>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.  | Short title and commen-tation. |
| 2. In article 81 of the Constitution, in the proviso to clause (3), for the words and figures “be construed as a reference to the 1971 census”, the following shall be substituted, namely:<br><br>“(b) construed,—<br>(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<br>(ii) for the purposes of sub-clause (b) of clause (2), as a reference to the 1991 census”. | Amend-ment of article 81.      |
| 3. In article 82 of the Constitution, in the third proviso, for the words “readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article”, the following shall be substituted, namely:<br><br>“readjust —<br>(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and               | Amend-ment of article 82.      |

- Amend-  
ment of  
article  
170.
- (ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 1991 census,  
under this article".
4. In article 170 of the Constitution,—
- (a) in clause (2), the proviso to the *Explanation* shall be omitted;
  - (b) in the third proviso to clause (3), for the words "readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause", the following shall be substituted, namely:—
- "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 1991 census,  
under this clause".

**Bill No. 48 of 1996**

**THE CONSTITUTION (EIGHTIETH AMENDMENT)  
BILL, 1996**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Eightieth Amendment) Act, 1996.

- 
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 81 of the Constitution, in the proviso to clause (3), for the words and figures “be construed as a reference to the 1971 census”, the following shall be substituted, namely:—
- “(b) 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 1991 census”.
3. In article 82 of the Constitution, in the third proviso, for the words “readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article”, the following shall be substituted, namely:—
- “readjust —
- (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 1991 census,
- under this article”.
4. In article 170 of the Constitution,—
- (a) in clause (2), the proviso to the *Explanation* shall be omitted;

Amend-  
ment of  
article 81.

Amend-  
ment of  
article 82.

Amend-  
ment of  
article  
170.

(b) in the third proviso to clause (3), for the words “readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause”, the following shall be substituted, namely:—

“readjust—

- (i) the allocation of seats in the Legislative Assembly of each States 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 1991 census,

under this clause”.

#### **Bill No. 100 of 1996**

### **THE CONSTITUTION (EIGHTY-FIRST AMENDMENT) BILL, 1996**

*(AS INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Constitution (Eighty-first Amendment) Act, 1996.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion  
of new  
article  
330A.

2. After article 330 of the Constitution, the following article shall be inserted namely:—

“330A. (1) Seats shall be reserved for women in the House of the People.

(2) Not less than 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, as the case may be, the Scheduled Tribes:

Provided that nothing in this clause shall apply in relation to a State or Union territory so long as the number of seats reserved for Scheduled Castes or Scheduled Tribes, as the case may be, in that State or Union territory, is less than three.

(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 to the House of the People in a State or Union territory shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State or Union territory:

Provided that nothing in this clause shall apply in relation to a State or Union territory so long as the number of seats allotted to such State or Union territory is less than three.”.

3. After article 332 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 332A.

“332A. (1) Seats shall be reserved for women in the Legislative Assembly of every State.

(2) Not less than one-third of the total number of seats reserved under clause (3) of article 332 shall be reserved for women

Reservation of seats for women in the Legislative Assemblies of the States.

belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that nothing in this clause shall apply in relation to a State so long as the number of seats reserved for Scheduled Castes or Scheduled Tribes, as the case may be, in that State, is less than three.

(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 the Legislative Assembly of every State shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State:

Provided that nothing in this clause shall apply in relation to a State so long as the number of seats allotted to such State is less than three.”.

Amendments not to affect the representation in the House of the People or Legislative Assembly.

4. The Amendments made to the Constitution by this Act, shall not affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or the Assembly, as the case may be, in existence at the commencement of this Act.

#### **Bill No. XXXIX of 1997**

#### **THE CONSTITUTION (EIGHTY-THIRD AMENDMENT) BILL, 1997**

*(As INTRODUCED IN RAJYA SABHA)*

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commen-  
cement.

1. (1) This Act may be called the Constitution (Eighty-third Amendment) Act, 1997.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 21 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 21A.

“21A. (1) The State shall provide free and compulsory education to all citizens of the age of six to fourteen years.

Right to education.

(2) The right to free and compulsory education referred to in clause (1) shall be enforced in such manner as the State may, by law, determine.

(3) The State shall not make any law, for free and compulsory education under clause (2), in relation to the educational institutions not maintained by the State or not receiving aid out of State funds.”.

3. Article 35 of the Constitution shall be renumbered as clause (1) of that article and after clause (1) as so renumbered and before the *Explanation*, the following clause shall be inserted, namely:—

Amendment of article 35.

“(2) The competent legislature shall make the law for the enforcement of right to free and compulsory education referred to in clause (1) of article 21A within one year from the commencement of the Constitution (Eighty-third Amendment) Act, 1997:

Provided that a provision of any law relating to free and compulsory education in force in a State immediately before the commencement of the Constitution (Eighty-third Amendment) Act, 1997 which is inconsistent with the provisions of article 21A, 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.”.

Omission  
of article  
45.

4. Article 45 of the Constitution shall be omitted.

Amend-  
ment of  
article  
51A.

5. In article 51A of the Constitution, after clause (j), the following clause shall be added, namely:—

“(k) to provide opportunities for education to a child between the age of six and fourteen years of whom such citizen is a parent or guardian.”.

### **Bill No. 71 of 1998**

### **THE CONSTITUTION (EIGHTY-FOURTH AMENDMENT) BILL, 1998**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India.*

Short title  
and  
commen-  
cement.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Amend-  
ment of  
article  
239AA.

1. (1) This Act may be called the Constitution (Eighty-fourth Amendment) Act, 1998.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 239AA of the Constitution in clause (2) in sub-clause (b), for the words “Scheduled Castes”, the words “the Scheduled Castes and the women” shall be substituted.

3. After article 330 of the Constitution, the following article shall be inserted, namely:—

Insertion  
of new  
article  
330A.

“330A. (1) Seats shall be reserved for women in the House of the People.

Reserva-  
tion of  
seats 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, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be reserved in the other two general elections:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People—

(a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(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 in a State or Union territory shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State or Union territory:

Provided that where the seat, not being a seat reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general election shall be reserved for women and no seat shall be so reserved for women in the other two general elections:

Provided further that where the seats, not being seats reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

- (a) one seat shall be reserved for women in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and
- (b) no seat shall be reserved for women in the third general election.”.

4. In article 331 of the Constitution, the following proviso shall be inserted at the end, namely:—

Amend-  
ment of  
article  
331.

“Provided that where such nominations are made in relation to every block comprising of three general elections to the House, one seat shall be reserved for nomination of a woman of Anglo-Indian community to every House constituted after first two general elections and no seat shall be reserved for the women of that community in the House constituted after the third general election.”.

5. After article 332 of the Constitution, the following article shall be inserted, namely:—

Insertion  
of new  
article  
332A.

“332A. (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, as the case may be:

Reserva-  
tion of  
seats for  
women in  
the  
Legisla-  
tive  
Assem-  
blies of  
the States.

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State is one, then, in every block comprising of three general elections to the Legislative Assembly of that State, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State are two, then, in every block comprising

of three general elections to the Legislative Assembly of that State,—

- (a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and
  - (b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.
- (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 and such seats may be allotted by rotation to different constituencies in that State.”.

Amend-  
ment of  
article  
333.

6. In article 333 of the Constitution, the following proviso shall be inserted at the end, namely:—

“Provided that where such nomination is made in relation to every block comprising of three general elections to the Assembly, the seat in the Assembly constituted after the first general election shall be reserved for nomination of a woman of the Anglo-Indian community and no seat shall be reserved for the women of that community in the Assembly constituted after the second and the third general elections.”.

- 
7. After article 334 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 334A.

“334A. Notwithstanding anything in the foregoing provisions of this Part or Part VIII, the provisions of this 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 cease to have effect on the expiration of a period of fifteen years from the commencement of the Constitution (Eighty-fourth Amendment) Act, 1998:

Reservation of seats for women to cease after fifteen years.

Provided that 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 then existing House, Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be.”.

8. The amendments made to the Constitution, by this Act, shall not 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 House, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be, in existence at the commencement of this Act.

Amendments not to affect the representation in the House of the People or Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi.

**Bill No. 78 of 1998****THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT)  
BILL, 1998***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Eighty-fifth Amendment) Act, 1998.

Amend-  
ment of  
article  
269.

2. In article 269 of the Constitution, for clauses (1) and (2), the following clauses shall be substituted, namely:—

‘(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

*Explanation.*—For the purposes of this clause—

(a) the expression “taxes on the sale or purchase of goods” shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression “taxes on the consignment of goods” shall mean taxes on the consignment 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.'

3. For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

'270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on certain 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).

Substitution of new article for article 270.

Taxes and duties levied and collected by the Union and distributed between the Union and the States.

(2) Such percentage, as may be prescribed, of the proceeds of any such tax or duty, excluding refunds 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 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.’.

4. For article 271 of the Constitution, the following article shall be substituted, namely:—

“271. (1) Notwithstanding anything contained in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in clause (2) 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.

(2) The duties or taxes referred to in clause (1), are as follows, namely:—

- (a) taxes on income other than agricultural income;
- (b) duties in respect of succession to property other than agricultural land;
- (c) estate duty in respect of property other than agricultural land;
- (d) terminal taxes on goods or passengers carried by railway, sea or air;
- (e) taxes on railway fares and freights;
- (f) taxes other than stamp duties on transactions in stock exchanges and futures markets;

Substitution of new article for article 271.

Surcharge on certain duties and taxes for purposes of the Union.

- (g) taxes on the sale or purchase of newspapers and on advertisements published therein;
  - (h) 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;
  - (i) 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.”.
5. (1) Article 272 of the Constitution shall be omitted. Omission of article 272.
- (2) Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.
- (3) Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been distributed in accordance with the provisions of article 270.

**Bill No. 99 of 1999****THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT)  
BILL, 1999***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fiftieth Year  
of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Eighty-fifth Amendment) Act, 1999.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
article  
239AA.

2. In article 239AA of the Constitution, in clause (2), in sub-clause (b), for the words “Scheduled Castes”, the words “the Scheduled Castes and the women” shall be substituted.

Insertion  
of new  
article  
330A.

3. After article 330 of the Constitution, the following article shall be inserted, namely:—

Reserva-  
tion of  
seats for  
women in  
the House  
of the  
People.

“330A. (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, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the

House of the People, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be so reserved in the other two general elections:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

- (a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and
- (b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(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 in a State or Union territory shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State or Union territory:

Provided that where the seat, not being a seat reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the

House of the People, the seat in the first general election shall be reserved for women and no seat shall be so reserved for women in the other two general elections:

Provided further that where the seats, not being seats reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

- (a) one seat shall be reserved for women in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and
- (b) no seat shall be reserved for women in the third general election.”.

4. In article 331 of the Constitution, the following proviso shall be inserted at the end, namely:—

“Provided that where such nominations are made, in relation to every block comprising of three general elections to the House, one seat shall be reserved for nomination of a woman of Anglo-Indian community to every House constituted after first two general elections and no seat shall be reserved for the women of that community in the House constituted after the third general election.”.

5. After article 332 of the Constitution, the following article shall be inserted, namely:—

“332A. (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)

Amend-  
ment of  
article  
331.

Insertion of  
new article  
332A.

Reservation  
of seats for  
women in  
the Legisla-  
tive  
Assemblies  
of the  
States.

of article 332 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State is one, then, in every block comprising of three general elections to the Legislative Assembly of that State, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State are two, then, in every block comprising of three general elections to the Legislative Assembly of that State,—

- (a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and
- (b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(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 and such seats may be

allotted by rotation to different constituencies in that State.”.

Amend-  
ment of  
article  
333.

6. In article 333 of the Constitution, the following proviso shall be inserted at the end, namely:—

“Provided that where such nomination is made, in relation to every block comprising of three general elections to the Assembly, the seat in the Assembly constituted after the first general election shall be reserved for nomination of a woman of the Anglo-Indian community and no seat shall be reserved for the women of that community in the Assembly constituted after the second and the third general elections.”.

Insertion  
of new  
article  
334A.

7. After article 334 of the Constitution, the following article shall be inserted, namely:—

Reserva-  
tion of  
seats for  
women to  
cease after  
fifteen  
years.

“334A. Notwithstanding anything in the foregoing provisions of this Part or Part VIII, the provisions of this 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 cease to have effect on the expiration of a period of fifteen years from the commencement of the Constitution (Eighty-fifth Amendment) Act, 1999:

Provided that 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. Legislative

Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be.”.

8. The amendments made to the Constitution, by this Act, shall not 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 House, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be, in existence at the commencement of this Act.
- Amendments not to affect the representation in the House of the People or Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi.

**Bill No. XLVII of 1999**

**THE CONSTITUTION (EIGHTY-SEVENTH AMENDMENT) BILL, 1999**

(As INTRODUCED IN RAJYA SABHA)

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Eighty-seventh Amendment) Act, 1999. Short title.
  2. In article 243C of the Constitution,—
    - (i) after clause (2), the following clause shall be inserted, namely:—
 

“(2A) Notwithstanding anything in clause (2), the Legislature of a State may, by law, provide that all the seats in a Panchayat—

      - (a) at the intermediate level shall be filled by persons elected as Chairpersons of the Panchayats at village level in the Panchayat area of such intermediate level;
- Amendment of article 243C.

- (b) at the district level, in the case of a State not having Panchayats at the intermediate level, shall be filled by persons elected as Chairpersons of the Panchayats at the village level in the Panchayat area of such district level; and
  - (c) at the district level, in the case of a State having Panchayats at the intermediate level, shall be filled by persons elected as Chairpersons of Panchayats at the intermediate level in the Panchayat area of such district level.”;
- (ii) for clause (5), the following clause shall be substituted, namely:—
- “(5) The Chairperson of a Panchayat at the village level, intermediate level or district level shall be elected in such manner as the Legislature of a State may, by law, provide.”.

**Bill No. 41 of 2003****THE CONSTITUTION (NINETY-EIGHTH AMENDMENT) BILL, 2003***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title  
and  
commen-  
cement.

1. (1) This Act may be called the Constitution (Ninety-eighth Amendment) Act, 2003.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (2), for the portion beginning with the words “after consultation” and ending with the words “Provided further that-”, the following shall be substituted, namely:—

“on the recommendation of the National Judicial Commission and shall hold office until he attains the age of sixty-five years:

Provided that-”.

3. In Part V of the Constitution, after Chapter IV, the following Chapter shall be inserted, namely:—

Amendment of article 124.

Insertion of new Chapter IVA.

#### CHAPTER IVA. NATIONAL JUDICIAL COMMISSION

147A. (1) The President shall by order constitute a Commission, referred to in this Constitution as the National Judicial Commission.

Constitution of National Judicial Commission and its functions.

(2) Without prejudice to the provisions of clause (3), the National Judicial Commission shall consist of the following:—

(a) the Chief Justice of India, who shall be the Chairperson of the Commission;

(b) two other Judges of the Supreme Court next to the Chief Justice of India in seniority;

(c) the Union Minister in-charge of Law and Justice; and

(d) one eminent citizen to be nominated by the President in consultation with the Prime Minister:

Provided that the eminent citizen nominated under sub-clause (d) shall hold office for a period of three years.

(3) In the case of appointment or transfer of a Judge of a High Court, the Chief Justice of that High Court and the Chief Minister of that State or when a proclamation under article 356 is in operation in that State, the Governor of that State shall be associated with the Commission.

(4) It shall be the duty of the Commission-

(a) to make recommendation of persons for appointment of Judges of the Supreme Court, Chief Justices of High Courts and the Judges of the High Courts;

(b) to make recommendation for the transfer of the Chief Justices of High Courts and the Judges of High Courts from one High Court to any other High Court;

(c) to draw up a code of ethics for Judges of the Supreme Court, Chief Justices of High Courts and the Judges of the High Courts;

(d) to inquire into, *suo motu* or on a complaint or reference, cases of misconduct or such deviant behaviour of a Judge other than those calling for his removal and advise the Chief Justice of India or the Chief Justice of a High Court appropriately after such inquiry.

(5) The recommendation made by the Commission under clause (4) shall be binding.

(6) No person, who is not recommended for appointment as a Judge by the Commission, shall be so appointed by the President.

(7) The Commission shall have the power to regulate its own procedure including the

procedure to be followed under sub-clause (d) of clause (4).”.

4. In article 217 of the Constitution, in clause (1), for the portion beginning with the words “after consultation” and ending with the words “the High Court”, the words “on the recommendation of the National Judicial Commission” shall be substituted.
5. In article 222 of the Constitution, in clause (1), for the words “after consultation with the Chief Justice of India”, the words “on the recommendation of the National Judicial Commission” shall be substituted.
6. In article 231 of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—  
“(a) the reference in clause (3) of article 147A to the Chief Minister of the State shall be construed as a reference to the Chief Ministers of all the States in relation to which the High Court exercises jurisdiction.”.

#### **Bill No. 64 of 2003**

#### **THE CONSTITUTION (ONE HUNDRED AND FIRST AMENDMENT) BILL, 2003**

*(As INTRODUCED IN LOK SABHA)*

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (One Hundred and First Amendment) Act, 2003.

- Amendment of the Ninth Schedule. 2. In the Ninth Schedule to the Constitution of India, after entry 284 and before the *Explanation*, the following entry shall be inserted, namely:—  
 “285. The Essential Commodities (Amendment) Act, 2003 (Central Act 37 of 2003).”.

**Bill No. 67 of 2003****THE CONSTITUTION (ONE HUNDRED AND SECOND AMENDMENT) BILL, 2003***(As INTRODUCED IN LOK SABHA)**A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

- Short title and commen- cement. 1. (1) This Act may be called the Constitution (One hundred and second Amendment) Act, 2003.  
 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- Amend- ment of article 54. 2. In article 54 of the Constitution, in the *Explanation*, the words “the National Capital Territory of Delhi and” shall be omitted.
- Omission of articles 239AA and 239AB. 3. Article 239AA and 239AB of the Constitution shall be omitted.
- Insertion of new article 371J. 4. After article 371-I of the Constitution, the following article shall be inserted, namely:—

‘371J. (1) Notwithstanding anything in this Constitution,—

(a) Parliament shall have exclusive power to make law—

(i) for the whole or any part of the State of Delhi with respect to any matter specified in entries 1 and 2 of the State List in the Seventh Schedule and entries 64, 65 and 66 of that List in so far as they relate to the said entries 1 and 2;

(ii) for New Delhi only with respect to any matter specified in entries 5 and 18 of the State List in the Seventh Schedule and entries 64, 65 and 66 of that List in so far as they relate to the said entries 5 and 18;

(b) the executive power, in so far as it relates to—

(i) entries 1 and 2 referred to in paragraph (i) of sub-clause (a) in respect of the State of Delhi; and

(ii) entries 5 and 18 referred to in paragraph (ii) of sub-clause (a) in respect of New Delhi,

shall be exercised by the President acting, to such extent as he thinks fit, through the Governor of the State of Delhi;

(c) the President may make special provision for the reservation of appointments or posts under the State of Delhi in favour of the Scheduled Tribes.

*Explanation*—For the purposes of this clause, the expression “New Delhi” has the meaning

Special provision with respect to the State of Delhi.

assigned to it in clause (27) of section 2 of the New Delhi Municipal Council Act, 1994.

(2) Clause (1) of article 342, in relation to the State of Delhi, shall have effect as if the words “and where it is a State, after consultation with the Governor thereof,” had been omitted therein.

(3) The President shall have executive power—

- (i) to give direction to the State of Delhi for good governance and proper development of that State; and
- (ii) to require that the master plan prepared for the State of Delhi shall not be implemented without his previous approval,

and such direction or requirement, as the case may be, of the President shall be binding on the Government of the State of Delhi.

*Explanation*—For the purposes of this clause, the expression “master plan” means any plan which provides for land uses, building regulation or any other control norms for the development of the State of Delhi.’

**ANNEXURE (C)**

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**TABLE SHOWING THE PROVISIONS OF  
THE CONSTITUTION AMENDED BY  
THE CONSTITUTION AMENDMENT ACTS  
(First to Ninety-fourth) ALONG WITH THE  
PURPOSE OF THE AMENDMENT**

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**TABLE SHOWING THE PROVISIONS\* OF  
THE CONSTITUTION AMENDED BY THE  
CONSTITUTION AMENDMENT ACTS  
(First to Ninety-fourth) ALONG WITH THE  
PURPOSE OF THE AMENDMENT**

**ARTICLES**

Article/ Schedule, etc., of the Constitution	Amended/ Substituted/ Repealed/ Inserted by	Constitution Amendment Act and the year in which enacted	Purpose of the Amendment
1	2	3	4
Preamble	Amended by	<b>Forty-second</b> (1976)	To <i>insert</i> the words “Socialist Secular”
1(2) and 1(3)(b)	Substituted by	<b>Seventh</b> (1956)	To <i>provide</i> for the States and the Union territories as specified in the First Schedule to reflect alterations after the reorganization of States in 1956
2A	Inserted by	<b>Thirty-fifth</b> (1974)	To <i>confer</i> on Sikkim the status of an Associate State within the Indian Union
	Omitted by	<b>Thirty-sixth</b> (1975)	Due to inclusion of Sikkim as a full-fledged State
3, Proviso	Substituted by	<b>Fifth</b> (1955)	To <i>enable</i> the President to fix the time-frame for seeking the opinion of the Legislature of the State concerned on formation of new States, increase/decrease in the area of any State, etc.

\*For the Original Provision (s) see the Constitution of India as adopted in Annexure (E).

1	2	3	4
	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme
3, Explanation I and II	Inserted by	<b>Eighteenth</b> (1966)	To <i>clarify</i> that "State" in article 3 (but not in the Proviso thereto) includes Union territories also
13(4)	Inserted by	<b>Twenty-fourth</b> (1971)	To <i>make</i> article 13 inapplicable to the amendments of the Constitution made under article 368
15(4)	Inserted by	<b>First</b> (1951)	To <i>enable</i> the State to make special provisions for advancement of socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes
15(5)	Inserted by	<b>Ninety-third</b> (2005)	To <i>enable</i> the State to make special provisions for admission of socially and educationally backward classes or SCs/STs to educational institutions including the aided or unaided ones other than the minority private educational institutions
16(3)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme

1	2	3	4
16(4A)	Inserted by	<b>Seventy-seventh</b> (1995)	To <i>enable</i> the State to provide for reservation in promotions, with consequential seniority, to any class of posts in the services under the State in favour of SCs/STs
19(1)(f)	Omitted by	<b>Forty-fourth</b> (1978)	Right to Property ceased to be a Fundamental Right
19(2)	Substituted by	<b>First</b> (1951)	Three new grounds: friendly relations with foreign States/ Public order/incitement to an offence <i>inserted</i> ; ground of “tends to overthrow the State” <i>deleted</i> ; certain other grounds <i>substituted</i> , in connection with restrictions on Freedom of Speech
	Amended by	<b>Sixteenth</b> (1963)	The words, “Sovereignty and Integrity of India” <i>inserted</i> as a ground of restriction
19(3) and (4)	Amended by	<b>Sixteenth</b> (1963)	The words, “Sovereignty and Integrity of India” <i>inserted</i> as a ground of restriction
19(5)	Amended by	<b>Forty-fourth</b> (1978)	Reference to sub-clause (f) <i>omitted</i> consequent upon omission of Right to Property as a Fundamental Right
19(6)	Amended by	<b>First</b> (1951)	State <i>empowered</i> to impose restrictions on carrying on any trade, business or service, profession, etc., by the State to the inclusion, complete or partial of citizens or otherwise

1	2	3	4
21A	Inserted by	<b>Eighty-sixth</b> (2002)	Right to Education <i>made</i> a Fundamental Right
22(4) and(7)	Substituted by	<b>Forty-fourth</b> (1978)	To <i>provide</i> safeguards against misuse of preventive detention
30(1A)	Inserted by	<b>Forty-fourth</b> (1978)	Protection of Minorities' interests to be <i>ensured</i> in case of acquisition of any property of their educational institutions
Sub-heading after article 30	Omitted by	<b>Forty-fourth</b> (1978)	Sub-heading "Right to Property" <i>omitted</i> consequent upon its omission as a Fundamental Right
31	Substituted by	<b>Fourth</b> (1955)	In case of compulsory acquisition or requisition of property, adequacy of compensation <i>made</i> unquestionable in a court of law
	Substituted by	<b>Twenty-fifth</b> (1971)	To <i>replace</i> the word "compensation" by the word "amount"
	Repealed by	<b>Forty-fourth</b> (1978)	Right to Property <i>ceased</i> to be a Fundamental Right
Sub-heading after article 31	Inserted by	<b>Forty-second</b> (1976)	Sub-heading "Saving of Certain Laws" <i>inserted</i> in relation to acquisition of estate, etc.
31A	Inserted by	<b>First</b> (1951)	Provisions <i>made</i> for saving of certain laws providing for acquisition of estates or other intermediate interests in land, etc., from being void on the basis of the provisions of Part III

1	2	3	4
31A(1)	Substituted by	<b>Fourth</b> (1955)	More categories of welfare legislations <i>taken out</i> from the purview of articles 14, 19 and 31
	Amended by	<b>Forty-fourth</b> (1978)	The said reference to article 31 <i>deleted</i> upon its repeal
31A(1), Second Proviso	Inserted by	<b>Seventeenth</b> (1964)	To <i>provide</i> for payment of compensation in case of acquisition of “estate”, etc.
31A (2)(a)	Amended by	<b>Seventeenth</b> (1964)	Definition of “estate” <i>amended</i> in view of different connotations within the State/Country
31A (2)(b)	Amended by	<b>Fourth</b> (1955)	The scope of the expression “rights” in relation to an estate, <i>enlarged</i>
31B	Inserted by	<b>First</b> (1951)	<i>Validation</i> of certain Acts and regulations specified in Ninth Schedule even if they are inconsistent with Part III of the Constitution
31C	Inserted by	<b>Twenty-fifth</b> (1971)	<i>Saving</i> of laws giving effect to Directive Principles under article 39(b) and (c), from articles 14, 19 and 31
	Amended by	<b>Forty-second</b> (1976)	<i>Saving</i> of laws extended for giving effect to all or any of the Directive Principles
	Amended by	<b>Forty-fourth</b> (1978)	The reference to article 31 <i>deleted</i> upon its <i>repeal</i>
31D	Inserted by	<b>Forty-second</b> (1976)	<i>Saving</i> of laws in respect of anti-national activities from articles 14, 19 and 31
	Repealed by	<b>Forty-third</b> (1977)	The said article repealed

1	2	3	4
32A	Inserted by	<b>Forty-second</b> (1976)	Constitutional validity of State laws <i>not to be considered</i> in proceedings under article 32
	Omitted by	<b>Forty-third</b> (1977)	The said article <i>repealed</i>
33	Substituted by	<b>Fiftieth</b> (1984)	<i>Re:</i> Power of Parliament to modify the Rights conferred by Part III in their application to armed forces
38(2)	Inserted by	<b>Forty-fourth</b> (1978)	Directive Principle <i>enjoining</i> a duty upon the State to minimize/eliminate inequalities in income/status among people
39(f)	Substituted by	<b>Forty-second</b> (1976)	Directive Principle to <i>provide</i> for opportunities and facilities for children to develop in healthy manner apart from being protected against exploitation and moral and material abandonment
39A	Inserted by	<b>Forty-second</b> (1976)	Directive Principle to <i>provide</i> for equal justice and free legal aid
43A	Inserted by	<b>Forty-second</b> (1976)	Directive Principle to <i>provide</i> for participation of workers in management of industries, etc.
45	Substituted by	<b>Eighty-sixth*</b> (2002)	The State to <i>provide</i> for early childhood care and education to children below 6 years in place of free and compulsory education for children until the age of fourteen years

\*The Constitution (Eighty-sixth Amendment) Act, 2002 is yet to be commenced.

1	2	3	4
48A	Inserted by	<b>Forty-second</b> (1976)	Directive Principle <i>incorporated</i> for protecting/improving environment, and safeguarding forests and wild life
49	Amended by	<b>Seventh</b> (1956)	State protection also <i>extended</i> to monuments, places and objects declared of national importance under law made by Parliament in addition to those so declared by law
Part IV A, 51A	Inserted by	<b>Forty-second</b> (1976)	Fundamental Duties of Citizens <i>specified</i>
51A (k)	Inserted by	<b>Eighty-sixth*</b> (2002)	Duty of a parent/guardian to provide education to his child/ward between the age of 6 and 14 years, <i>specified</i>
54, Explanation	Inserted by	<b>Seventh</b> (1956)	The word “State” to include the National Capital Territory of Delhi and Pondicherry for the purposes of articles 54 and 55
55, Explanation	Substituted by	<b>Forty-second</b> (1976)	In connection with the election of President, the expression “Population” referring to population figures as ascertained on the basis of 1971 census <i>to remain</i> so until the first census taken after 2000
	Substituted by	<b>Eighty-fourth</b> (2001)	The said year 2000 <i>replaced</i> by 2026
58	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States’ reorganization scheme

\*The Constitution (Eighty-sixth Amendment) Act, 2002 is yet to be commenced.

1	2	3	4
66(1)	Amended by	<b>Eleventh</b> (1961)	The requirement of joint meeting for the purpose of electing the Vice-President, <i>withdrawn</i>
66, Explanation	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme
71	Substituted by	<b>Thirty-ninth</b> (1975)	In place of Supreme Court, Parliament <i>empowered</i> to regulate matters relating to election of President or Vice-President with authority beyond the jurisdiction of courts
	Substituted by	<b>Forty-fourth</b> (1978)	<i>Restored</i> the jurisdiction of the Supreme Court in connection with the above-said matters
71(4)	Inserted by	<b>Eleventh</b> (1961)	Election of President or Vice-President <i>not to be questioned</i> on the ground of existence of any vacancy in the Electoral College
72(3)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme
73(1), Proviso	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme
74(1)	Substituted by	<b>Forty-second</b> (1976)	To explicitly <i>provide</i> that the President shall act in accordance with the aid and advice of the Council of Ministers.
74(1), Proviso	Inserted by	<b>Forty-second</b> (1976)	President <i>empowered</i> to require the Council of Ministers to

1	2	3	4
			reconsider any advice, but shall have to accept the advice tendered after such reconsideration
75(1A)	Inserted by	<b>Ninety-first</b> (2003)	Fifteen per cent of the total number of members of the House of the People fixed as ceiling for Council of Ministers at the Centre
75(1B)	Inserted by	<b>Ninety-first</b> (2003)	Member of Parliament disqualified under Paragraph 2 of the Tenth-Schedule, shall also be disqualified for being a Minister
77(4)	Inserted by	<b>Forty-second</b> (1976)	Any court or authority <i>disentitled</i> to require the production of any rules framed for the transaction of Government business
	Omitted by	<b>Forty-fourth</b> (1978)	The said provision <i>omitted</i>
80(1)(b) and (2)	Amended by	<b>Seventh</b> (1956)	Reference to Union territories <i>added</i> in connection with composition of the Council of States
80(4)	Amended by	<b>Seventh</b> (1956)	The words “specified in Part A or Part B of the First Schedule” <i>omitted</i>
80(5)	Amended by	<b>Seventh</b> (1956)	For the words, “State specified in Part C of the First Schedule” the words, “Union territories” <i>substituted</i>

1	2	3	4
81	Substituted by	<b>Seventh</b> (1956)	<i>Provided for composition of the House of the People subsequent to reorganization of States in 1956</i>
81(1)	Amended by	<b>Thirty-fifth</b> (1974)	Reference to Paragraph 4 of the Tenth Schedule (then relating to Sikkim), <i>added</i>
	Amended by	<b>Thirty-sixth</b> (1975)	The said reference <i>omitted</i>
81(1)(a)	Amended by	<b>Thirty-first</b> (1973)	The words, “Five hundred and twenty five” in place of “Five hundred” <i>substituted</i> for direct election from States to the House of the People.
81(1)(b)	Amended by	<b>Second</b> (1952)	Upper population limit of 750,000 for a parliamentary constituency, <i>omitted</i>
	Amended by	<b>Fourteenth</b> (1962)	To <i>substitute</i> the words “twenty members” by “twenty-five members” for representation from Union territories in the House of the People
	Amended by	<b>Thirty-first</b> (1973)	To <i>substitute</i> the words “twenty-five members” by “twenty members” for representation from Union territories in the House of the People
81(2)(b), Proviso	Inserted by	<b>Thirty-first</b> (1973)	The condition of similarity in ratio between the number of seats allotted to each State in the House of the People and

1	2	3	4
81(3), Proviso	Inserted by <b>Forty-second</b> (1976)	the population of a State <i>made inapplicable</i> to the States, where the population does not exceed six million	
81(3), Proviso (i) and (ii)	Substituted by <b>Eighty-fourth</b> (2001)	The expression, “Population” in article 81 referring to population figures as ascertained on the basis of 1971 census, shall <i>remain so</i> until the first census taken after 2000	
		(i) Population figures to be taken into account for allocation of seats to each State in the House of the People <i>to remain</i> on the basis of 1971 census until the first census taken after 2026	
		(ii) Population figures to be taken into account for division of a State into territorial constituencies <i>to remain</i> on the basis of 1991 census until the first census taken after 2026	
82, Second Proviso	Substituted by <b>Eighty-seventh</b> (2003)	The reference to 1991 in Proviso (ii) <i>substituted</i> by 2001	
82, Third Proviso	Inserted by <b>Forty-second</b> (1976)	Readjustment after each census <i>to take effect</i> from the date specified by the President	
		Allocation of seats in the House of the People and division of each State into territorial constituencies <i>not to be readjusted</i> until the first census taken after 2000	

1	2	3	4
82, Third Proviso (i) and (ii)	Substituted by	<b>Eighty-fourth</b> (2001)	The freeze on readjustment of (i) allocation of seats on the basis of 1971 census and (ii) division of a State into territorial constituencies on the basis of 1991 census, <i>extended</i> until the first census taken after 2026
82, Third Proviso (ii)	Substituted by	<b>Eighty-seventh</b> (2003)	The reference to 1991 in Proviso (ii) <i>substituted</i> by 2001
83(2)	Amended by	<b>Forty-second</b> (1976)	Duration of the House of the People <i>extended</i> from five years to six years
	Amended by	<b>Forty-fourth</b> (1978)	<i>Restored</i> the duration to five years
84(a)	Substituted by	<b>Sixteenth</b> (1963)	Apart from being a citizen of India, the requirement of oath or affirmation <i>added</i> with regard to qualification for membership of Parliament
85	Substituted by	<b>First</b> (1951)	Earlier provision to summon the House(s) of Parliament twice at least in every year <i>substituted</i> now providing for summoning the House(s) from time to time as the President thinks fit. The provision that six months shall not intervene between the sittings, remained unchanged
87	Amended by	<b>First</b> (1951)	President to address Parliament at the commencement of first session

1	2	3	4
			after a general election as well as of each year <i>in place</i> of every session
87(2)	Amended by	<b>First</b> (1951)	Reference to discussion on President's Address in precedence to other business, <i>omitted</i>
101(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States' reorganization scheme
101(3)(a) and (b)	Amended by	<b>Thirty-third</b> (1974)	For vacation of seats upon resignation by a member of Parliament, the requirement of its acceptance by the Chairman or the Speaker <i>specified</i> in sub-clause (b)
	Amended by	<b>Fifty-second</b> (1985)	For the purpose of vacation of seats upon disqualification of a member of Parliament, reference to disqualification under the Tenth Schedule <i>added</i> in sub-clause (a)
101(3), Proviso	Inserted by	<b>Thirty-third</b> (1974)	<i>Provided</i> for non-acceptance of member's resignation by the Chairman or the Speaker upon satisfaction that such resignation is not voluntary or genuine
102(2)	Inserted by	<b>Fifty-second</b> (1985)	<i>Provided</i> for disqualification from membership of Parliament upon disqualification under the Tenth Schedule

1	2	3	4
103	Substituted by	<b>Forty-second</b> (1976)	President <i>to consult</i> the Election Commission before giving any decision on disqualification of a member of Parliament including on the ground on his being found guilty of corrupt practice and the Election Commission empowered to hold inquiry if deemed fit
	Substituted by	<b>Forty-fourth</b> (1978)	In case of above, provision existing before the Forty-second Amendment restored, wherein disqualification on being found guilty of corrupt practice was not provided for and the President was <i>bound</i> to act according to the opinion of the Election Commission
105(3)	Amended by	<b>Forty-fourth</b> (1978)	Reference to British House of Commons <i>replaced</i> entitling the members of Parliament to such powers, privileges and immunities as available before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978
112(3)(d)(iii)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of the Seventh Amendment to facilitate States' reorganization scheme
123(4)	Inserted by	<b>Thirty-eighth</b> (1975)	President's satisfaction concerning Ordinance Promulgation <i>made</i> final and

1	2	3	4
			conclusive and not to be questioned in courts
	Omitted by	<b>Forty-fourth</b> (1978)	The said clause <i>omitted</i>
124 (2A)	Inserted by	<b>Fifteenth</b> (1963)	Parliament <i>empowered</i> to make law concerning the age of a Judge of the Supreme Court
125(1)	Substituted by	<b>Fifty-fourth</b> (1987)	Parliament <i>empowered</i> to make law concerning salaries, etc., of the Judges of the Supreme Court
128	Amended by	<b>Fifteenth</b> (1963)	To <i>provide</i> for appointment of a retired High Court Judge to sit and act as a Judge of the Supreme Court
131, Proviso	Substituted by	<b>Seventh</b> (1956)	Consequent upon reorganisation of States in 1956, reference to a State specified in Part of the First Schedule <i>omitted</i> with regard to keeping treaties, agreements, etc., out of the original jurisdiction of the Supreme Court
131A	Inserted by	<b>Forty-second</b> (1976)	Jurisdiction of the Supreme Court regarding constitutional validity of Central laws <i>made exclusive</i>
	Omitted by	<b>Forty-third</b> (1977)	The said article <i>omitted</i>
132(1)	Amended by	<b>Forty-fourth</b> (1978)	Reference to article 134A <i>added</i> for issue of certificate by the High Court for an appeal to the Supreme Court

1	2	3	4
132(2)	Omitted by	<b>Forty-fourth</b> (1978)	Clause <i>omitted</i> withdrawing the facility of an appeal on grant of ‘Special leave’ by the Supreme Court making certificate by the High Court the only requirement for appeal in the Supreme Court
132(3)	Omitted by	<b>Forty-fourth</b> (1978)	In the case of the above said appeal, the right of the party to challenge the propriety of the decision <i>confined</i> to the ground mentioned in the certificate by the High Court, which is the involvement of a substantial question of law as to the interpretation of the Constitution
133(1)	Substituted by	<b>Thirtieth</b> (1972)	High Court to <i>certify</i> two conditions as specified therein in the civil cases involving no constitutional question, for an appeal to the Supreme Court
	Amended by	<b>Forty-fourth</b> (1978)	Reference to article 134A <i>added</i> for issue of certificate by the High Court for an appeal in civil matters
134(1)(c)	Inserted by	<b>Forty-fourth</b> (1978)	Reference to article 134A <i>added</i> for issue of certificate by the High Court for an appeal to the Supreme Court in criminal matters
134(A)	Inserted by	<b>Forty-fourth</b> (1978)	High Court to <i>determine</i> the question regarding a certificate

1	2	3	4
			of fitness for appeal in the Supreme Court at the time of passing of judgement, decree, etc.
139A	Inserted by	<b>Forty-second</b> (1976)	Supreme Court <i>empowered</i> to transfer certain cases to itself for disposal
139A(1)	Substituted by	<b>Forty-fourth</b> (1978)	Supreme Court after determining the questions of law may return the case so transferred to itself, to the High Court for disposal thereof
143(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States' reorganization scheme
144A	Inserted by	<b>Forty-second</b> (1976)	Special provisions <i>inserted</i> as to minimum number of Judges and the majority required for disposal of questions relating to constitutional validity of laws
	Repealed by	<b>Forty-third</b> (1977)	The said article <i>repealed</i>
145(1)(cc)	Inserted by	<b>Forty-second</b> (1976)	New clause <i>inserted</i> regarding rules as to the proceedings in the court under article 131A and 139A
	Amended by	<b>Forty-third</b> (1977)	Reference to article 131A <i>omitted</i> from the said clause
145(2)	Amended by	<b>Forty-second</b> (1976)	Rule of courts fixing the minimum number of Judges to sit for a purpose <i>made</i> subject to article 144A

1	2	3	4
	Omitted by	<b>Forty-third</b> (1977)	Reference to article 144A <i>omitted</i> upon its repeal
150	Substituted by	<b>Forty-second</b> (1976)	<i>Provided</i> for Form of Accounts of the Union and of the States to be decided by the President in consultation with C&AG
	Amended by	<b>Forty-fourth</b> (1978)	<i>Provided</i> for President to act on the advice of C&AG instead of merely consulting in connection with the above
151(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States' reorganization scheme
Part VI, Heading	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States' reorganization scheme
152	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of the Seventh Amendment to facilitate States' reorganization scheme
153, Proviso	Inserted by	<b>Seventh</b> (1956)	Provisions <i>made</i> for appointment of the same person as Governor for more than two States
158(3A)	Inserted by	<b>Seventh</b> (1956)	<i>Empowered</i> President to decide the allocation of emoluments, etc., among the States in case of a Governor appointed for two or more States

1	2	3	4
164(1), Proviso	Substituted by	<b>Ninety-fourth</b> (2006)	Reference to “Chhattisgarh and Jharkhand” <i>added</i> in place of “Bihar” in the list of States who shall have a Minister in charge of tribal welfare
164(1A)	Inserted by	<b>Ninety-first</b> (2003)	Fifteen per cent of the total members of the Legislative Assembly of a State <i>fixed</i> as ceiling for Council of Ministers at the State level provided that the total strength shall not be less than twelve
164(1B)	Inserted by	<b>Ninety-first</b> (2003)	<i>Provided</i> that a member of a State Legislature disqualified under Paragraph 2 of the Tenth Schedule shall also be disqualified for being a Minister
166(4)	Inserted by	<b>Forty-second</b> (1976)	No court or authority entitled to require the production of any rules framed for the transaction of Government business
	Omitted by	<b>Forty-fourth</b> (1978)	The said clause <i>omitted</i>
168(1)(a)	Amended by	<b>Seventh</b> (1956)	To <i>add</i> Madhya Pradesh in the list of States having Bicameral Legislature
170	Substituted by	<b>Seventh</b> (1956)	<i>Provided</i> for composition of Legislative Assemblies consequent upon reorganization of States in 1956
170(2), Explanation	Substituted by	<b>Forty-second</b> (1978)	The expression “Population” in article 170(2) referring to

1	2	3	4
			population figures as ascertained on the basis of 1971 census, to remain so until the first census taken after 2000
Amended by	<b>Eighty-fourth</b> (2001)	The said references to 2000 and 1971 <i>substituted</i> by 2026 and 1991 respectively	
Amended by	<b>Eighty-seventh</b> (2003)	The reference to 1991 <i>substituted</i> by 2001	
170(3), Second Proviso	Inserted by <b>Forty-second</b> (1976)	President to <i>specify</i> the date of enforcement of readjustment of territorial constituencies	
170(3), Third Proviso	Inserted by <b>Forty-second</b> (1976)	<i>Provided</i> that allocation of seats in the Legislative Assembly of each State and division of each State not to be readjusted until the first census taken after 2000	
170(3), Third Proviso (i) and (ii)	Amended by <b>Eighty-fourth</b> (2001)	The freeze on readjustment of (i) allocation of seats in the Legislative Assembly of each State on the basis of 1971 census and (ii) division of such State into territorial constituencies on the basis of 1991 census, <i>extended</i> until the first census after 2026	
Amended by	<b>Eighty-seventh</b> (2003)	The reference to 1991 in Proviso (ii) <i>substituted</i> by 2001	
171(1)	Amended by <b>Seventh</b> (1956)	In place of “one-fourth”, “one-third” of the members of the Legislative Assembly <i>fixed</i> as the upper limit for composition of the Legislative Council	

1	2	3	4
172(1)	Amended by	<b>Forty-second</b> (1976)	Duration of Legislative Assembly <i>extended</i> to six years from five years
	Amended by	<b>Forty-fourth</b> (1978)	<i>Restored</i> the duration to five years
173(a)	Substituted by	<b>Sixteenth</b> (1963)	Apart from being a citizen of India, the requirement of oath or affirmation <i>added</i> with regard to qualification for membership of State Legislature
174	Substituted by	<b>First</b> (1951)	Earlier provision of meeting of the House(s) of the State Legislature twice at least in every year <i>substituted</i> now providing for summoning the House(s) from time to time as the Governor thinks fit. The provision that six months shall not intervene between the sittings, remained unchanged
176(1)	Amended by	<b>First</b> (1951)	Governor to address the State Legislature at the commencement of first session after a general election as well as of each year <i>in place</i> of every session
176(2)	Amended by	<b>First</b> (1951)	Reference to discussion on Governor's Address in precedence to other business, <i>omitted</i>
190(3)(a) and (b)	Amended by	<b>Thirty-third</b> (1974)	For vacation of seat upon resignation by a member of

1	2	3	4
			State Legislature, the requirement of its acceptance by the Speaker or the Chairman <i>specified</i> in sub-clause (b)
Amended by	<b>Fifty-second</b> (1985)	For the purpose of vacation of seats upon disqualification of a member of State Legislature, reference to disqualification under Tenth Schedule <i>added</i> in sub-clause (a)	
190(3), Proviso Inserted by	<b>Thirty-third</b> (1974)	Provision <i>made</i> for non-acceptance of a member's resignation by the Chairman or the Speaker upon satisfaction that such resignation is not voluntary or genuine	
191(2)      Inserted by	<b>Fifty-second</b> (1985)	<i>Provided</i> for disqualification from membership of State Legislature upon disqualification under the Tenth Schedule	
192      Substituted by	<b>Forty-second</b> (1976)	In place of Governor, the President <i>empowered</i> to decide the question as to whether a member of a House of the State Legislature has become subject to disqualification under clause (1) of article 191 or on the ground of being found guilty of a corrupt practice	
Substituted by	<b>Forty-fourth</b> (1978)	In case of above, <i>restored</i> the powers of the Governor who shall act according to the opinion of the Election Commission	

1	2	3	4
194(3)	Amended by	<b>Forty-fourth</b> (1978)	Reference to British House of Commons <i>replaced</i> entitling the members of State Legislature to such powers, privileges and immunities as available before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) Act, 1978
213(4)	Inserted by	<b>Thirty-eighth</b> (1975)	Governor's satisfaction concerning Ordinance Promulgation <i>made</i> final and conclusive and not be questioned in courts
	Omitted by	<b>Forty-fourth</b> (1978)	The said clause <i>omitted</i>
216, Proviso	Omitted by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
217(1)	Amended by	<b>Seventh</b> (1956)	<i>Provided</i> for retirement age of additional or acting Judges with reference to article 224
	Amended by	<b>Fifteenth</b> (1963)	<i>Provided</i> that Judges other than additional or acting to hold office until the age of sixty-two years in place of sixty years
217(2)(b)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
217(2)(c)	Inserted by	<b>Forty-second</b> (1976)	New qualification <i>added</i> making a distinguished jurist

1	2	3	4
			also eligible for the appointment as a Judge of a High Court
	Omitted by	<b>Forty-fourth</b> (1978)	The said clause <i>omitted</i>
217(2), Explanation (a) and (aa)	Substituted/ Re-lettered by	<b>Forty-second</b> (1976) and <b>Forty-fourth</b> (1978)	<i>Provided</i> that to be a Judge of High Court, experiences other than being an Advocate also to be taken into consideration
217(3)	Inserted by	<b>Fifteenth</b> (1963)	<i>Provided</i> that the question relating to the age of a Judge of High Court to be decided by the President after consultation with the Chief Justice of India
219	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
220	Substituted by	<b>Seventh</b> (1956)	Supreme Court and other High Courts <i>made exceptions</i> to prohibition on practising in courts or before any authority by a person who has held office as a permanent Judge of a High Court
221(1)	Substituted by	<b>Fifty-fourth</b> (1987)	Parliament <i>empowered</i> to make law concerning salaries, etc., of the Judges of High Courts
222(1)	Omitted by	<b>Seventh</b> (1956)	Reference to the expression, "within the territory of India" <i>omitted</i> in relation to transfer of the Judges of High Courts

1	2	3	4
222(2)	Omitted by	<b>Seventh</b> (1956)	Provisions for Compensatory Allowance to a Judge of the High Court on transfer to another High Court, <i>omitted</i>
	Inserted by	<b>Fifteenth</b> (1963)	Provisions <i>re-inserted</i> to provide for Compensatory Allowance to a Judge of the High Court on transfer to another High Court
224	Substituted by	<b>Seventh</b> (1956)	To <i>provide</i> for appointment of additional and acting Judges of High Courts
224(3)	Amended by	<b>Fifteenth</b> (1963)	To <i>provide</i> for additional or acting Judges to hold office until the age of sixty-two years in place of sixty years
224A	Inserted by	<b>Fifteenth</b> (1963)	To <i>provide</i> for appointment of retired Judges at sittings of High Courts
225, Proviso	Omitted by	<b>Forty-second</b> (1976)	Proviso relating to inapplicability of restrictions concerning revenue matters on the original jurisdiction of the High Court before the commencement of the Constitution, <i>omitted</i>
	Inserted by	<b>Forty-fourth</b> (1978)	The said Proviso <i>re-inserted</i>
226	Substituted by	<b>Forty-second</b> (1976)	Power of High Courts to issue writs in cases other than enforcement of Fundamental Rights, <i>restricted</i>

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	Substituted by	<b>Forty-fourth</b> (1978)	The above said restrictions <i>omitted</i>
226(1)	Amended by	<b>Forty-third</b> (1977)	Reference to articles 131A and 226A <i>omitted</i> consequent upon their repeal
226(3) to (7)	Substituted by	<b>Forty-fourth</b> (1978)	Powers of High Court to order vacation of interim order. Clauses 3 to 6 were <i>replaced</i> by clause (3) and clause (7) was re-numbered as clause (4)
226A	Inserted by	<b>Forty-second</b> (1976)	Constitutional validity of Central laws <i>taken</i> out of the purview of High Courts
	Omitted by	<b>Forty-third</b> (1977)	The said article <i>omitted</i>
227(1)	Substituted by	<b>Forty-second</b> (1976)	Power of superintendence of High Courts over Tribunals, <i>withdrawn</i>
	Substituted by	<b>Forty-fourth</b> (1978)	Power of superintendence of High Courts over Tribunals, <i>restored</i>
227(5)	Inserted by	<b>Forty-second</b> (1976)	Jurisdiction of High Court over inferior courts <i>made subject</i> to its appellate jurisdiction. Any judgement of any inferior court not otherwise subject to appeal or revision, kept out of the purview of a High Court.
	Omitted by	<b>Forty-fourth</b> (1978)	The said restrictions <i>withdrawn</i>
228	Amended by	<b>Forty-second</b> (1976)	Transfer of certain cases to High Court <i>made subject to</i> article 131A which relates to exclusive jurisdiction of the Supreme Court as to the question of constitutional validity of Central laws

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	Omitted by	<b>Forty-third</b> (1977)	The said reference to article 131A <i>deleted</i>
228A	Inserted by	<b>Forty-second</b> (1976)	<i>Made</i> special provisions as to disposal of questions relating to constitutional validity of State laws
	Omitted by	<b>Forty-third</b> (1977)	The said article <i>omitted</i>
229(1) and (2), Provisos	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
230, 231 and 232	Substituted by	<b>Seventh</b> (1956)	Articles 230 and 231 provided for in place of 230, 231 and 232, concerning High Courts jurisdiction over Union territories and common High Court for two or more States
233A	Inserted by	<b>Twentieth</b> (1966)	<i>Validation</i> of appointment of and judgements, etc., delivered by, certain district judges
Part VII	Repealed by	<b>Seventh</b> (1956)	Part VII relating to States in Part B of the First Schedule, <i>repealed</i>
Part VIII, Heading	Substituted by	<b>Seventh</b> (1956)	The heading "The States in Part C of the First Schedule" <i>substituted</i> by "The Union territories"
239	Substituted by	<b>Seventh</b> (1956)	To <i>provide</i> for administration of Union territories
239A	Inserted by	<b>Fourteenth</b> (1962)	<i>Provided</i> for creation of local Legislatures or Council of

1	2	3	4
			Ministers or both for certain Union territories
239A(1)	Amended by  Amended by	<b>Twenty-seventh</b> (1971)  <b>Thirty-seventh</b> (1975)	Reference to Mizoram <i>added</i> in connection with creation of local Legislature under article 239A  Reference to Arunachal Pradesh <i>added</i> in connection with creation of local Legislature under article 239A
239AA	Inserted by	<b>Sixty-ninth</b> (1991)	Special provision <i>made</i> with respect to the National Capital Territory of Delhi
239AA(7)	Substituted by	<b>Seventieth</b> (1992)	Clause (7) <i>re-numbered</i> as (7a) consequent upon <i>insertion</i> of clause (b) making laws made by Parliament under clause (7a) in relation to the National Capital Territory of Delhi, out of the purview of article 368
239AB	Inserted by	<b>Sixty-ninth</b> (1991)	<i>Made</i> provision in case of failure of constitutional machinery in the National Capital Territory of Delhi
239B	Inserted by	<b>Twenty-seventh</b> (1971)	<i>Provided</i> for power of administrator of the Union territory referred to in article 239A(1) to promulgate Ordinances during recess of Legislature
239(B)(4)	Inserted by	<b>Thirty-eighth</b> (1975)	Administrator's satisfaction concerning Ordinance Promulgation <i>made</i> final and

1	2	3	4
			conclusive and not to be questioned in courts
	Omitted by	<b>Forty-fourth</b> (1978)	The said clause <i>omitted</i>
240	Substituted by	<b>Seventh</b> (1956)	Power of the President to make regulations for certain Union territories, <i>specified</i>
240(1)(c)	Inserted by	<b>Tenth</b> (1961)	In connection with President's powers under article 240, reference to "Dadra and Nagar Haveli", <i>added</i>
240(1)(d)	Inserted by	<b>Twelfth</b> (1962)	In connection with President's powers under article 240, reference to Goa, Daman and Diu, <i>added</i>
240(1)(e)	Inserted by	<b>Fourteenth</b> (1962)	In connection with President's powers under article 240, reference to "Pondicherry", <i>added</i>
240(1)(f) and (g)	Inserted by	<b>Twenty-seventh</b> (1971)	In connection with President's powers under article 240, reference to Mizoram and Arunachal Pradesh, <i>added</i>
240(1), First Proviso	Inserted by	<b>Fourteenth</b> (1962)	<i>Provides</i> that the body acting as Legislature not the President to make regulations for peace, progress, etc., in case of Union territories where such body is created under article 239A
240(1), Second Proviso	Inserted by	<b>Twenty-seventh</b> (1971)	<i>Provided</i> that the President may make regulations for peace, progress, etc., in case

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240(2)	Amended by <b>Twenty-seventh</b> (1971)		Legislature for such Union territories gets dissolved or is put under suspension
241(1), (3) and (4)	Amended by <b>Seventh</b> (1956)		<i>Provided</i> that the President's regulations may repeal or amend "any other law" (earlier it was any existing law) applicable to the Union territory
242	Omitted by <b>Seventh</b> (1956)		<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
Part IX	Omitted by <b>Seventh</b> (1956)		<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
Part IX (Articles 243, 243A to 243-O)	Inserted by <b>Seventy-third</b> (1992)		Part IX <i>inserted</i> to provide for the Panchayats and matters related therewith
243M(3A)	Inserted by <b>Eighty-third</b> (2000)		Made article 243D relating to reservation of seats for Scheduled Castes, inapplicable to the State of Arunachal Pradesh
Part IXA (Articles 243P to 243ZG)	Inserted by <b>Seventy-fourth</b> (1992)		Part IXA <i>inserted</i> to provide for the Municipalities and matters related therewith

1	2	3	4
244(1)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
244(1) and (2)	Amended by	<b>Forty-ninth</b> (1984)	Reference to Tripura <i>added</i> in connection with administration of Scheduled Areas and Tribal Areas
244A	Inserted by	<b>Twenty-second</b> (1973)	<i>Provided</i> for formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor
246(2), (3) and (4)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
254(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
255	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' Reorganization scheme</i>
257A	Inserted by	<b>Forty-second</b> (1976)	<i>Made provisions for assistance to States, by deployment of armed forces or other forces of the Union for dealing with any grave situation of law and order</i>
	Repealed by	<b>Forty-fourth</b> (1978)	The said article <i>repealed</i>

1	2	3	4
258A	Inserted by	<b>Seventh</b> (1956)	<i>Provided</i> for power of the Governor of a State to entrust functions to the Union in relation to State matters
259	Omitted by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
264	Substituted by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
267(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
268(1)(a)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
268A	Inserted by	<b>Eighty-eighth*</b> (2003)	Provisions <i>made</i> for Service Tax levied by the Union and collected and appropriated by the Union and the States
269(1)(g) and (h)	Inserted by	<b>Sixth</b> (1956) and <b>Forty-sixth</b> (1982)	Taxes on sale or purchase of goods other than newspapers and taxes on consignment of goods <i>added</i> in the taxes levied and collected by the Union but assigned to the States

\*The Constitution (Eighty-eighth Amendment) Act, 2003 is yet to be commenced.

1	2	3	4
269(1) and (2)	Substituted by	<b>Eightieth</b> (2000)	To <i>provide</i> for alternative scheme of sharing proceeds from taxes levied and collected by the Union but assigned to the States
269(3)	Inserted by	<b>Sixth</b> (1956)	Parliament <i>empowered</i> to formulate principles in relation to inter-State trade or commerce
	Amended by	<b>Forty-sixth</b> (1982)	The said power of Parliament <i>extended</i> to consignment of goods in addition to sale or purchase of goods
270	Substituted by	<b>Eightieth</b> (2000)	To <i>provide</i> for alternative scheme of sharing proceeds from taxes levied and distributed between the Union and the States
270(1)	Amended by	<b>Eighty-eighth*</b> (2003)	Article 268A relating to Service Tax, brought under the purview of article 270 which provides for taxes levied and collected by the Union and distributed between the Union and the States
275(1A)	Inserted by	<b>Twenty-second</b> (1969)	Provisions <i>made</i> for allocation of grants between the State of Assam and its autonomous State
276(2)	Substituted by	<b>Sixtieth</b> (1988)	The amount of tax payable on professions, trades, etc., <i>enhanced</i> from Rs. 250 to Rs. 2500

\*The Constitution (Eighty-eighth Amendment) Act, 2003 is yet to be commenced.

1	2	3	4
276, Proviso	Omitted by	<b>Sixtieth</b> (1988)	In view of the above enhancement, the Proviso relating to continuance of tax rate exceeding Rs. 250 in any State, municipalities, etc., before the commencement of the Constitution, <i>omitted</i>
278	Repealed by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
280(3)(bb)	Inserted by	<b>Seventy-third</b> (1992)	<i>Provided</i> for measures to supplement the resources of the Panchayats
280(3)(c)	Inserted by	<b>Seventy-fourth</b> (1992)	<i>Provided</i> for measures to supplement the resources of the Municipalities. The existing sub-clause(c) was re-lettered as sub-clause(d)
283(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
286(1), Explanation	Omitted by	<b>Sixth</b> (1956)	The Explanation giving clarification regarding the place of sale or purchase of goods, <i>omitted</i>
286(2)	Substituted by	<b>Sixth</b> (1956)	Parliament to determine principles in relation to sale or purchase of goods

1	2	3	4
286(3)	Substituted by	<b>Sixth</b> (1956)	State tax on sale or purchase of goods which are of special importance in inter-State trade, <i>made subject to restrictions by Parliament</i>
	Substituted by	<b>Forty-sixth</b> (1982)	In addition to above, taxes <i>vide</i> clause 29(A) of article 366 also <i>made subject to restrictions by Parliament</i>
290A	Inserted by	<b>Seventh</b> (1956)	Provisions <i>added</i> regarding annual payment to certain Devaswom Funds
291	Repealed by	<b>Twenty-sixth</b> (1971)	Article related to privy purse sums of Rulers, <i>repealed</i>
297	Amended by	<b>Fifteenth</b> (1963)	Reference to “continental shelf” <i>added</i> vesting its resources in the Union
	Substituted by	<b>Fortieth</b> (1976)	Purview of the Union <i>extended</i> to resources of exclusive economic zone also
298	Substituted by	<b>Seventh</b> (1956)	In place of “Power to acquire property”, the article now <i>provides</i> for Union or State’s power to carry on trade or business, etc.
299(1) and (2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> <i>vide</i> section 29 of Seventh Amendment to facilitate States’ reorganization scheme
Chapter IV in Part XII, 300A	Inserted by	<b>Forty-fourth</b> (1978)	Heading “Right to Property” <i>added</i> with article 300A making it a legal right

1	2	3	4
304(a)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
305	Substituted by	<b>Fourth</b> (1955)	Apart from existing laws, other laws providing for State monopolies also <i>saved</i> from the effect of article 301 which provides for freedom of trade, commerce and intercourse
306	Repealed by	<b>Seventh</b> (1956)	Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce—article <i>repealed</i>
308	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
309	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
310(1) and (2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
311(2) and (3)	Substituted by	<b>Seventh</b> (1956)	Principles of natural justice <i>made</i> available to civil servants who are subject to inquiry
311(2) and First Proviso	Amended by	<b>Forty-second</b> (1976)	Opportunity of making representation on the penalty proposed on civil servant, <i>withdrawn</i>

1	2	3	4
312(1), (3) and (4)	Amended by	<b>Forty-second</b> (1976)	Chapter VI of Part VI relating to Subordinate Courts or Part XI pertaining to relations between the Union and the State <i>made inapplicable</i> in the context of creation of All-India Services including an All-India Judicial Service. The newly inserted clauses (3) and (4) <i>provide</i> that any post inferior to that of a District Judge not to be included in the All-India Judicial Service; For the creation of the said Service, Chapter VI of Part VI can be amended without recourse to article 368
312A	Inserted by	<b>Twenty-eighth</b> (1972)	Parliament <i>empowered</i> to vary or revoke conditions of service of officers of certain services
314	Repealed by	<b>Twenty-eighth</b> (1972)	Provision for protection of existing officers of certain services, <i>repealed</i>
315(4)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
316(1)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
316(1A)	Inserted by	<b>Fifteenth</b> (1963)	Provisions <i>made</i> for appointment of acting Chairman in Public Service Commissions

1	2	3	4
316(2)	Amended by	<b>Forty-first</b> (1976)	Age limit <i>increased</i> to sixty-two years in place of sixty years in the case of a member of a State Public Service Commission or a Joint Public Service Commission
316(2), Proviso	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
317(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
318	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
320(3), Proviso and (5)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
323(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
Part XIVA (Article 323A- 323B)	Inserted by	<b>Forty-second</b> (1976)	Provisions <i>made</i> for adjudication or trial by Administrative Tribunals
323B(h), (i) and (j)	Inserted/ Re-lettered by	<b>Seventy-fifth</b> (1994)	Provisions <i>added</i> for adjudication of disputes relating to rent, tenancy, etc., by

1	2	3	4
324(1)	Amended by	<b>Nineteenth</b> (1966)	Tribunals. The existing sub-clauses (h) and (i) re-lettered as (i) and (j) Reference to appointment of Election Tribunals for decision of doubts and disputes concerning elections to Parliament/State Legislatures, <i>abolished</i>
324(6)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> <i>vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
326	Amended by	<b>Sixty-first</b> (1988)	Voting age <i>lowered</i> to eighteen years from twenty-one
329 and 329A	Amended/ Inserted by	<b>Thirty-ninth</b> (1975)	Special provision as to elections to Parliament in the case of Prime Minister and Speaker, <i>made</i> under the new article 329A taking them out of the purview of article 329 which <i>inter alia</i> provides for the mechanism of election petition for questioning election to Parliament/State Legislatures
329A	Repealed by	<b>Forty-fourth</b> (1978)	Article 329A and its reference in article 329, <i>omitted</i>
330(1)(b)	Amended by	<b>Twenty-third</b> (1969)	Reference to Nagaland <i>added</i> as an exception to providing for reservation of seats for the Scheduled Tribes in the House of the People

1	2	3	4
	Amended by	<b>Thirty-first</b> (1973)	In the context of the above said exception, reference to Meghalaya, Arunachal Pradesh and Mizoram, <i>added</i>
	Substituted by	<b>Fifty-first</b> (1984)	In the context of above said exception, reference to autonomous districts of Assam <i>added</i> [Reservation for Scheduled Tribes in autonomous districts of Assam has been provided for under sub-clause (c)]
330(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
330(3)	Inserted by	<b>Thirty-first</b> (1973)	<i>Provided</i> for proportion of number of seats reserved in the House of the People for Scheduled Tribes of the autonomous districts of Assam in relation to the total number of seats allotted to that State
330, Explanation, Proviso	Inserted by	<b>Forty-second</b> (1976)	<i>Provided</i> that for the purposes of articles 330 and 332, the expression "Population" referring to the population figures as ascertained on the basis of 1971 census, shall <i>remain</i> so until the first census taken after the year 2000
	Amended by	<b>Eighty-fourth</b> (2001)	The said references to 1971 and 2000 <i>replaced</i> by 1991 and 2026
	Amended by	<b>Eighty-seventh</b> (2003)	The reference to 1991 <i>replaced</i> by 2001

1	2	3	4
332(1)	Substituted by	<b>Fifty-first</b> (1984)	The Scheduled Tribes of the autonomous districts of Assam <i>excluded</i> for the purpose of reservation of seats for SCs/STs in the Legislative Assemblies [Reservation for autonomous districts of Assam in the Legislative Assembly of Assam provided for in clause (2)]
	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
332(3A)	Inserted by	<b>Fifty-seventh</b> (1987)	<i>Provided</i> for arrangement regarding reservation for Scheduled Tribes in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland until the readjustment takes effect under article 170 on the basis of first census after the year 2000
	Substituted by	<b>Eighty-fourth</b> (2001)	The said reference of 2000 <i>replaced</i> by 2026
332(3B)	Inserted by	<b>Seventy-second</b> (1992)	<i>Provided</i> for arrangement regarding reservation for Scheduled Tribes in the Legislative Assembly of Tripura until the readjustment takes effect under article 170 on the basis of first census after the year 2000
	Substituted by	<b>Eighty-fourth</b> (2001)	The said reference of 2000 <i>replaced</i> by 2026

1	2	3	4
332(6), Proviso	Inserted by	<b>Ninetieth</b> (2003)	<i>Provisions made for maintaining representation of Bodoland District in the Legislative Assembly of Assam</i>
333	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
	Amended by	<b>Twenty-third</b> (1969)	Nomination of Anglo-Indian community by the Governor in Legislative Assemblies of the State, <i>restricted</i> to one
334	Amended by	<b>Seventy-ninth</b> (1999)	<i>Provided</i> that reservation of seats and special representation in the House of the People and the State Legislative Assemblies to expire after sixty years from the commencement of the Constitution
335, Proviso	Inserted by	<b>Eighty-second</b> (2000)	To <i>facilitate</i> relaxation in qualifying marks in any examination or lowering the standards of evaluation for reservation in matters of promotion to any class/classes of services/posts under the Union or of a State, for Scheduled Castes and Scheduled Tribes

1	2	3	4
337	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
338	Substituted by	<b>Sixty-fifth</b> (1990)	Marginal Heading <i>changed</i> from "Special Officer for Scheduled Castes and Scheduled Tribes" to "National Commission for Scheduled Castes and Scheduled Tribes". The existing clauses (1) and (2) <i>replaced</i> by clauses (1) to (9) dealing with composition, powers, etc., relating to the said Commission. The existing clause (3) <i>re-numbered</i> as clause (10)
338, Marginal Heading, (1), (2), (5), (9) and (10)	Substituted by	<b>Eighty-ninth</b> (2003)	Consequent upon creation of the National Commission for Scheduled Tribes separately under article 338A, reference to the words "and Scheduled Tribes" <i>omitted</i> from article 338, now restricted to the National Commission for Scheduled Castes
338A	Inserted by	<b>Eighty-Ninth</b> (2003)	To <i>provide</i> for creation of the National Commission for Scheduled Tribes and related provisions
339(1) and (2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>

1	2	3	4
341(1) and 342(1)	Amended by	<b>First</b> (1951)	Reference to “States specified in Part A and Part B” <i>added</i> in relation to specifying those clauses which are to be included in the category of SCs/STs for the purpose of the Constitution
	Omitted by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States’ reorganization scheme
348(1), (2) and (3)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate State’s reorganization scheme
350A	Inserted by	<b>Seventh</b> (1956)	<i>Provided</i> for facilities to be made for instruction in mother tongue at primary stage of education
350B	Inserted by	<b>Seventh</b> (1956)	To <i>provide</i> for Special Officer for linguistic minorities
352(1)	Amended by	<b>Forty-second</b> (1976)	Certain words <i>inserted</i> to specify that the Proclamation of emergency may be declared “in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation”
	Substituted by	<b>Forty-fourth</b> (1978)	“Internal disturbance” <i>replaced</i> by “armed rebellion” in connection with grounds for Promulgation of emergency

1	2	3	4
352(1), Explanation	Inserted by	<b>Forty-fourth</b> (1978)	<i>Made</i> provision for Proclamation of emergency in case of imminent danger even before actual occurrence of war, etc.
352(2) and (2A)	Substituted/ Inserted by	<b>Forty-second</b> (1976)	The words “or varied” were <i>added</i> after the word “revoked” so as to provide that the Proclamation issued may be varied, subject to approval by Parliament
352(2) to (8)	Substituted by	<b>Forty-fourth</b> (1978)	Existing clauses 2, 2A and 3 <i>replaced</i> by clauses (2) to (8), regarding Proclamation of emergency with sufficient safeguards against its misuse
352(9) (earlier clauses 4 and 5)	Inserted by	<b>Thirty-eighth</b> (1975)	President <i>empowered</i> to issue different Proclamations on different grounds irrespective of whether a Proclamation under clause (1) is in operation or not [Then inserted as clause (4)]. The then newly inserted clause (5) <i>made</i> President’s satisfaction final and conclusive and immune from judicial review
		<b>Forty-fourth</b> (1978)	The said clause (4) <i>re-numbered</i> as clause (9) and the words, “internal disturbance” substituted by “armed rebellion”. Omitted the earlier clause (5) under which the satisfaction of the President as to the existence of a grave emergency necessitating Proclamation was final

1	2	3	4
353, Proviso	Inserted by	<b>Forty-second</b> (1976)	In case of Proclamation of emergency only in a State or a part thereof, the powers of the Union and Parliament <i>extended</i> to any State
356(1)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
356(4)	Amended by	<b>Forty-second</b> (1976)	Reference to period "six months" <i>replaced</i> by "one year" whereafter Proclamation under 356 or its continuation, as the case may be, shall cease to operate unless revoked earlier
	Amended by	<b>Forty-fourth</b> (1978)	The said period of "one year" <i>replaced</i> by "six months"
356(4), Third Proviso	Inserted by	<b>Sixty-fourth</b> (1990)	Reference to Proclamation in the State of Punjab, <i>added</i>
	Amended by	<b>Sixty-seventh</b> (1990)	Total period of Proclamation in case of the State of Punjab <i>extended</i> to four years
	Amended by	<b>Sixty-eighth</b> (1991)	The said period <i>extended</i> to five years
356(5)	Inserted by	<b>Thirty-eighth</b> (1975)	President's satisfaction regarding failure of constitutional machinery in States <i>made</i> final and conclusive and not to be questioned in any court on any ground

1	2	3	4
	Substituted by	<b>Forty-fourth</b> (1978)	The above-said provision <i>replaced</i> so as to specify two conditions for continuation of a Proclamation approved under clause (3) beyond the expiration of one year
356(5), Proviso 357(2)	Inserted/ Substituted/ Omitted/ Inserted by	<b>Forty-eighth</b> (1984) <b>Fifty-ninth</b> (1988) <b>Sixty-third</b> (1989) <b>Sixty-fourth</b> (1990)	<i>Relates</i> to non-application of clause (5) concerning Proclamation in the State of Punjab
	Substituted by	<b>Forty-second</b> (1976)	<i>Provided</i> that under Proclamation <i>vide</i> article 356, laws made by Parliament/ President/Authority shall remain in force even after the Proclamation ceases to operate until altered, repealed or amended
358(1)	Inserted by	<b>Forty-fourth</b> (1978)	Suspension of article 19 <i>confined</i> to Proclamation of emergency on the grounds of war or external aggression
358(1), Proviso	Inserted by	<b>Forty-second</b> (1976)	In view of the above, the words, “where such Proclamation of emergency” <i>substituted</i> in place of “where a Proclamation of emergency” in the Proviso to the said clause
			In case of Proclamation of emergency only in a part of the country, powers of law-making/ executive action <i>extended</i> to other places

1	2	3	4
358(2)	Inserted by	<b>Forty-fourth</b> (1978)	<i>Provided</i> that the said laws/executive actions to contain a recital to that effect
359(1)	Amended by	<b>Forty-fourth</b> (1978)	<i>Suspension</i> of enforcement of Fundamental Rights except articles 20 and 21 during emergencies. The reference to the same <i>added</i> in 359(1A) also
359(1A)	Inserted by	<b>Thirty-eighth</b> (1975)	<i>Provided</i> that suspension of Fundamental Rights under article 359 would not affect power of the State to make laws or take executive actions as enshrined in Part III
359(1A), Proviso and 359(2), Proviso	Inserted by	<b>Forty-second</b> (1976)	<i>Provided</i> for extension of the above said power of the State to make laws or take executive actions to places where Proclamation is not in operation. Such extension <i>made subject to</i> President's satisfaction as to its necessity
359(1B)	Inserted by	<b>Forty-fourth</b> (1978)	The said laws to <i>contain</i> a recital to that effect
359A	Inserted by	<b>Fifty-ninth</b> (1988)	Part XVIII related to emergency provisions, <i>applied</i> to the State of Punjab with modification as specified
	Repealed by	<b>Sixty-third</b> (1989)	The said article <i>repealed</i>
360(2)	Substituted by	<b>Forty-fourth</b> (1978)	Provisions for revocation, variation, approval, etc., of Financial Emergency, <i>specified</i>

1	2	3	4
360(5)	Inserted by Omitted by	<b>Thirty-eighth</b> (1975) <b>Forty-fourth</b> (1978)	President's satisfaction concerning situation of Financial Emergency <i>made</i> final and conclusive and not to be questioned in any court on any ground The said clause (5) <i>omitted</i>
361(2), (3) and (4)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
361A	Inserted by	<b>Forty-fourth</b> (1978)	Provisions <i>made</i> for protection of publication of proceedings of Parliament and State Legislatures
361B	Inserted by	<b>Ninety-first</b> (2003)	Disqualification under Paragraph 2 of the Tenth Schedule <i>extended</i> to disqualification for appointment on remunerative political post
362	Repealed by	<b>Twenty-sixth</b> (1971)	Article related to rights and privileges of Rulers of Indian States, <i>repealed</i>
363A	Inserted by	<b>Twenty-sixth</b> (1971)	Recognition granted to Rulers of Indian States <i>ceased</i> and privy purses <i>abolished</i>
366(4A)	Inserted by Omitted by	<b>Forty-second</b> (1976) <b>Forty-third</b> (1977)	Definition of the expression "Central Law", <i>added</i> The said definition <i>omitted</i>

1	2	3	4
366(21)	Omitted by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
366(22)	Substituted by	<b>Twenty-sixth</b> (1971)	The word "Ruler" <i>redefined</i>
366(26A)	Inserted by	<b>Forty-second</b> (1976)	Definition of the expression "State Law", <i>added</i>
	Omitted by	<b>Forty-third</b> (1977)	The said definition <i>omitted</i>
366(29A)	Inserted by	<b>Forty-sixth</b> (1982)	Definition of the expression "tax on the sale or purchase of goods", <i>added</i>
366(30)	Substituted by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
367(2)	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide section 29 of Seventh Amendment to facilitate States' reorganization scheme</i>
368	Amended by	<b>Twenty-fourth</b> (1971)	Marginal Heading <i>changed</i> to "Power of Parliament to amend the Constitution and Procedure therefor" <i>in place of</i> "Procedure for amendment of the Constitution"  Clause (1) <i>inserted</i> specifying the constituent power of Parliament. Original clause (1) re-numbered as clause (2)  Clause (2) as so re-numbered <i>substituted</i> making it obligatory

1	2	3	4
368(2)	Amended by	<b>Seventh</b> (1956)	upon the President to give his assent to the Constitution Amendment Bill passed by both the Houses of Parliament
368(3)	Inserted by	<b>Twenty-fourth</b> (1971)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States' reorganization scheme
368(4) and (5)*	Inserted by	<b>Forty-second</b> (1976)	Article 13 made <i>inapplicable</i> to the constituent power of Parliament
Part XXI, Heading	Amended by	<b>Thirteenth</b> (1962)	<i>Provided</i> that no amendment of the Constitution (including the provisions of Part III) can be challenged and there shall be no limitation on the constituent power of Parliament
371	Substituted by	<b>Seventh</b> (1956)	The words, "Temporary, Transitional and Special Provisions" were <i>substituted</i> in place of "Temporary and Transitional Provisions"
371(1)	Omitted by	<b>Thirty-second</b> (1973)	Special provision <i>made</i> with respect to the States of Andhra Pradesh, Punjab and Bombay
			Clause (1) providing for special provision in respect of Andhra Pradesh <i>omitted</i> . Reference to "Andhra Pradesh" in the Marginal Heading was also <i>omitted</i>

\*Section 55 of the Constitution (Forty-second Amendment) Act, 1976 providing for insertion of clauses (4) and (5) in article 368, has been declared invalid by the Supreme Court in *Minerva Mills Ltd., and others Vs. Union of India*, A.I.R. 1980 S.C. 1789.

1	2	3	4
371A	Inserted by	<b>Thirteenth</b> (1962)	Special provision <i>made</i> with respect to the State of Nagaland
371B	Inserted by	<b>Twenty-second</b> (1969)	Special provision <i>made</i> with respect to the State of Assam
371C	Inserted by	<b>Twenty-seventh</b> (1971)	Special provision <i>made</i> with respect to the State of Manipur
371D	Inserted by	<b>Thirty-second</b> (1973)	Special provision <i>made</i> with respect to the State of Andhra Pradesh
371E	Inserted by	<b>Thirty-second</b> (1973)	<i>Provided</i> for establishment of a Central University in Andhra Pradesh
371F	Inserted by	<b>Thirty-sixth</b> (1975)	Special provision <i>made</i> with respect to the State of Sikkim
	Amended by	<b>Forty-second</b> (1976)	Changes with reference to duration of the Legislative Assembly of Sikkim, <i>effected</i>
		<b>Forty-fourth</b> (1978)	
371G	Inserted by	<b>Fifty-third</b> (1986)	Special provision <i>made</i> with respect to the State of Mizoram
371H	Inserted by	<b>Fifty-fifth</b> (1986)	Special provision <i>made</i> with respect to the State of Arunachal Pradesh
371-I	Inserted by	<b>Fifty-sixth</b> (1987)	Special provision <i>made</i> with respect to the State of Goa
372(3)(a)	Amended by	<b>First</b> (1951)	Time limit to make adaptations/modifications in existing laws, <i>changed</i> from two years to three years from the commencement of the Constitution

1	2	3	4
372A	Inserted by	<b>Seventh</b> (1956)	President <i>empowered</i> to make adaptations/modifications in any law to bring them into accord with the provisions of the Constitution as amended by the Seventh Amendment
376(1)	Amended by	<b>First</b> (1951)	High Court Judges holding office before the commencement of the Constitution also <i>made</i> eligible to certain appointments
378A	Inserted by	<b>Seventh</b> (1956)	Special provision <i>made</i> as to the duration of Andhra Pradesh Legislative Assembly
379-391	Repealed by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
Part XXII, Heading and 394A	Amended/ Inserted by	<b>Fifty-eighth</b> (1987)	The words, "Authoritative Text in Hindi" <i>included</i> in the Heading. Article 394 added to facilitate authoritative text of the Constitution and the Constitution Amendment Acts in the Hindi language

**SCHEDULES**

<b>First Schedule</b> Substituted by	<b>Seventh</b> (1956)	Part A, B, C States <i>re-classified</i> and termed as "States" and "Union Territories"
Entries 2, 11, 14 and 20 under the Heading "The States"	<b>Ninth</b> (1960)	Entries relating to Assam Punjab, West Bengal and Tripura <i>amended</i> consequent upon transfer of certain territories to Pakistan

1	2	3	4
Entry 22 under the Heading “States”	Inserted by	<b>Thirty-sixth</b> (1975)	Entry relating to Sikkim <i>added</i>
Entry (4) under the Heading “the Union Territories”	Inserted by	<b>Tenth</b> (1961)	Entry relating to Dadra and Nagar Haveli <i>added</i>
Entry (5) under the Heading “the Union Territories”	Inserted by	<b>Twelfth</b> (1962)	Entry relating to Goa, Daman and Diu <i>added</i>
Entry (6) under the Heading “the Union Territories”	Inserted by	<b>Fourteenth</b> (1962)	Entry relating to Pondicherry <i>added</i>
<b>Second Schedule</b> Part A and Paras 1 to 3, Part B, Part C Heading and Para 8, Part D Heading	Amended by	<b>Seventh</b> (1956)	<i>Consequential change vide</i> section 29 of Seventh Amendment to facilitate States’ reorganization scheme
Part D Para 9 and 10	Amended by	<b>Fifty-fourth</b> (1986)	Salaries of Chief Justices and other Judges of the Supreme Court and High Courts <i>enhanced</i>
<b>Third Schedule</b> Form I, Forms III to VIII	Amended/ substituted by	<b>Sixteenth</b> (1963)	Reference to “uphold the Sovereignty and Integrity of India” added in Forms I, IV to VI and VIII. Forms III and VII <i>substituted</i> which also included the said reference

1	2	3	4
<b>Fourth Schedule</b>	Substituted by	<b>Seventh</b> (1956)	The Fourth Schedule substituted consequent upon the Reorganisation of States Act, 1956
Entry 21	Inserted by	<b>Fourteenth</b> (1962)	<i>Insertion</i> of Pondicherry in the Schedule
Entry 22	Inserted by	<b>Thirty-sixth</b> (1975)	<i>Insertion</i> of Sikkim in the Schedule
<b>Fifth Schedule</b> , Paras 1 and 3 of Part A, Paras 4 and 5 of Part B	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
Para 1 of Part A	Amended by	<b>Forty-ninth</b> (1984)	Reference to Tripura <i>added</i> in relation to the administration and control of Scheduled Areas and Scheduled Tribes
<b>Sixth Schedule</b> , Heading and Para 20	Amended by	<b>Forty-ninth</b> (1984)	Reference to Tripura <i>added</i> in relation to administration of tribal areas
<b>Seventh Schedule</b> <b>Union List</b>			
Entry 2A	Inserted by	<b>Forty-second</b> (1976)	<i>Provided</i> for deployment of Armed Forces of the Union in any State
Entry 32	Amended by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States' reorganization scheme
Entry 33	Omitted by	<b>Seventh</b> (1956)	Entry relating to acquisition and requisitioning of property, <i>omitted</i>

1	2	3	4
Entry 63	Substituted by	<b>Thirty-second</b> (1973)	Reference to “Delhi University” <i>substituted</i> by the words, “Delhi University; the University established in pursuance of article 371E”
Entry 67	Amended by	<b>Seventh</b> (1956)	State protection also <i>extended</i> to ancient and historical monuments, etc., declared of national importance under law made by Parliament in addition to those so declared by law
Entry 78	Amended by	<b>Fifteenth</b> (1963)	Reference to “including vacation” <i>added</i> in relation to constitution and organization of High Courts
Entry 79	Substituted by	<b>Seventh</b> (1956)	<i>Consequential change</i> vide section 29 of Seventh Amendment to facilitate States’ reorganization scheme
Entry 92A	Inserted by	<b>Sixth</b> (1956)	<i>Provided</i> for taxes on sale or purchase of goods other than newspapers
Entry 92B	Inserted by	<b>Forty-sixth</b> (1982)	<i>Made</i> provision for taxes on consignment of goods
Entry 92C	Inserted by	<b>Eighty-eighth</b> (2003)	Pertains to taxes on services
<b>State List</b>			
Entry 1	Amended by	<b>Forty-second</b> (1976)	Reference to “any other force, subject to the control of the Union or of any contingent or unit thereof” <i>added</i> for the purpose of public order

1	2	3	4
Entry 2	Substituted by	<b>Forty-second</b> (1976)	Reference to railway and village police, <i>added</i>
Entry 3	Amended by	<b>Forty-second</b> (1976)	Reference to “Administration of justice; constitution and organization of all Courts except the Supreme Court and High Courts”, <i>omitted</i>
Entry 11	Omitted by	<b>Forty-second</b> (1976)	Entry related to Education including Universities, <i>omitted</i>
Entry 12	Amended by	<b>Seventh</b> (1956)	State protection also <i>extended</i> to libraries, museums, etc. declared of national importance under law made by Parliament in addition to those so declared by law
Entry 19	Amended by	<b>Forty-second</b> (1976)	Entry related to Forests, <i>omitted</i>
Entry 20	Amended by	<b>Forty-second</b> (1976)	Entry related to protection of wild animals and birds, <i>omitted</i>
Entry 24	Amended by	<b>Seventh</b> (1956)	Industries <i>made subject to</i> the provisions of Entries 7 and 52 of List I in place of only 52
Entry 29	Omitted by	<b>Forty-second</b> (1976)	Entry related to weights and measures except establishment of standards, <i>omitted</i>
Entry 36	Omitted by	<b>Seventh</b> (1956)	Entry related to acquisition or requisitioning of property except for the purpose of the Union, <i>omitted</i>
Entry 54	Omitted by	<b>Sixth</b> (1956)	Taxes on sale or purchase of goods other than newspapers subject to the provisions of Entry 92A of List I, <i>omitted</i>

1	2	3	4
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### Concurrent List

Entry 11A	Inserted by	<b>Forty-second</b> (1976)	Administration of justice; constitution and organization of all Courts except the Supreme Court and High Courts, <i>added</i>
Entry 17A	Inserted by	<b>Forty-second</b> (1976)	Entry related to Forests, <i>added</i>
Entry 17B	Inserted by	<b>Forty-second</b> (1976)	Entry related to Protection of wild animals and birds, <i>added</i>
Entry 20A	Inserted by	<b>Forty-second</b> (1976)	Entry related to Population control and family planning, <i>added</i>
Entry 25	Substituted by	<b>Forty-second</b> (1976)	Entry <i>substituted</i> so as to include reference to Education including technical education, medical education and universities, etc., in addition to vocational and technical training of labour
Entry 33	Substituted by	<b>Third</b> (1954)	Purview of Entry 33 <i>extended</i> to more essential commodities, etc.
Entry 33A	Inserted by	<b>Forty-second</b> (1976)	Entry related to Weights and measures except establishment of standards, <i>included</i>
Entry 40	Amended by	<b>Seventh</b> (1956)	State protection also <i>extended</i> to archaeological sites and remains declared of national importance under law made by Parliament in addition to those so declared by law

1	2	3	4
Entry 42	Substituted by	<b>Seventh</b> (1956)	Entry modified so as to replace the reference to principles for determining compensation for property acquired or requisitioned by acquisition and requisitioning of property
<b>Eighth Schedule</b>	Amended by	<b>Twenty-first</b> (1967)	<i>Inserted “Sindhi” as Entry 12. Accordingly, other related entries re-numbered</i>
	Amended by	<b>Seventy-first</b> (1992)	<i>Inserted “Konkani, Manipuri and Nepali” as Entry nos. 7, 9 and 11 respectively. Accordingly, other related entries re-numbered</i>
	Amended by	<b>Ninety-second</b> (2003)	<i>Inserted “Bodo, Dogri, Maithili and Santhali” as Entry nos. 3, 4, 10 and 18 respectively. Accordingly, other related entries re-numbered</i>
<b>Ninth Schedule</b>	Added by	<b>First</b> (1951)	<i>Added as new Schedule with Entries 1 to 13</i>
	Added by	<b>Fourth</b> (1955)	Entries 14 to 20 <i>added</i>
	Added by	<b>Seventeenth</b> (1964)	Entries 21 to 64 and an Explanation <i>added</i>
	Added by	<b>Twenty-ninth</b> (1972)	Entries 65 and 66 <i>added</i>
	Added by	<b>Thirty-fourth</b> (1974)	Entries 67 to 86 <i>added</i>
	Added by	<b>Thirty-ninth</b> (1975)	Entries 87 to 124 <i>added</i>
	Added by	<b>Fortieth</b> (1976)	Entries 125 to 188 <i>added</i>

1	2	3	4
	Omitted by	<b>Forty-fourth</b> (1978)	Entries 87, 92 and 130 <i>omitted</i>
	Added by	<b>Forty-seventh</b> (1984)	Entries 189 to 202 <i>added</i>
	Added by	<b>Sixty-sixth</b> (1990)	Entries 203 to 257 <i>added</i>
	Added by	<b>Seventy-sixth</b> (1994)	Entries 257A <i>added</i>
	Added by	<b>Seventy-eighth</b> (1995)	Entries 258 to 284 <i>added</i>
<b>Tenth Schedule</b>	Added by	<b>Thirty-fifth</b> (1974)	<i>Related</i> to territories of Sikkim and its association with the Union
	Omitted by	<b>Thirty-sixth</b> (1975)	The said Schedule <i>omitted</i>
<b>New Tenth Schedule</b>	Added by	<b>Fifty-second</b> (1985)	Provisions as to disqualification on ground of defection, <i>added</i>
	Amended by	<b>Ninety-First</b> (2003)	Reference to Paragraph 3 <i>omitted</i> from the expression “legislature party”
			Reference to Paragraph 3 in sub-paragraph (1) of Paragraph (2), <i>removed</i>
			Paragraph 3 relating to “disqualification on ground of defection not to apply in case of split”, <i>omitted*</i>

\*Consequent upon these changes, disqualification on the ground of defection shall also apply in case of a split.

1	2	3	4
<b>Eleventh Schedule</b>	Added by	<b>Seventy-third</b> (1992)	<i>Specified</i> the matters with which the Panchayats may be devolved with powers and responsibilities
<b>Twelfth Schedule</b>	Added by	<b>Seventy-fourth</b> (1992)	<i>Specified</i> the matters with which the Municipalities may be devolved with powers and responsibilities

**ANNEXURE (D)**

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**TABLE SHOWING THE STATUS OF THE  
CONSTITUTION AMENDMENT BILLS *VIS-A-VIS*  
PASSED/REMOVED/LAPSED/WITHDRAWN/  
NEGATIVED/PENDING/NOT INTRODUCED**

**(First to One Hundred-Seventh)**

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**TABLE SHOWING THE STATUS OF THE  
CONSTITUTION AMENDMENT BILLS *VIS-A-VIS*  
PASSED/REMOVED/LAPSED/WITHDRAWN/  
NEGATIVED/PENDING/NOT INTRODUCED**

**(First to One Hundred-Seventh)**

Sl.No.	Number of the Constitution (Amendment) Bill (As introduced)	Number of the Constitution (Amendment) Act (As passed)	Status of the Bill— Removed/Lapsed/ Withdrawn/Negatived/ Pending/Not Introduced
1	2	3	4
1.	Constitution (First Amendment) Bill, 1951.	Constitution (First Amendment) Act, 1951.	—
2.	Constitution (Second Amendment) Bill, 1952.	Constitution (Second Amendment) Act, 1952.	—
3.	Constitution (Third Amendment) Bill, 1954.	Constitution (Third Amendment) Act, 1954.	—
4.	Constitution (Fourth Amendment) Bill, 1954.	Constitution (Fourth Amendment) Act, 1955.	—
5.	Constitution (Fifth Amendment) Bill, 1955.	—	Lapsed on the dissolution of First Lok Sabha.
6.	Constitution (Sixth Amendment) Bill, 1955.	—	Withdrawn by the leave of the House to enable the Government to bring forward a consolidated Bill which became inevitable in the light of the States Re- organisation Act, 1956.

1	2	3	4
7.	Constitution (Seventh Amendment) Bill, 1955.	—	Negated as the Bill could not obtain requisite majority on the motion for reference of the Bill to a Select Committee moved in the Lok Sabha.
8.	Constitution (Eighth Amendment) Bill, 1955.	Constitution (Fifth Amendment) Act, 1955.	—
9.	Constitution (Ninth Amendment) Bill, 1956.	Constitution (Seventh Amendment) Act, 1956.	—
10.	Constitution (Tenth Amendment) Bill, 1956.	Constitution (Sixth Amendment) Act, 1956.	—
11.	Constitution (Eighth Amendment) Bill, 1959.	Constitution (Eighth Amendment) Act, 1960.	—
12.	Constitution (Ninth Amendment) Bill, 1960.	Constitution (Ninth Amendment) Act, 1960.	—
13.	Constitution (Tenth Amendment) Bill, 1961.	Constitution (Tenth Amendment) Act, 1961.	—
14.	Constitution (Eleventh Amendment) Bill, 1961.	Constitution (Eleventh Amendment) Act, 1961.	—
15.	Constitution (Twelfth Amendment) Bill, 1962.	Constitution (Twelfth Amendment) Act, 1962.	—
16.	Constitution (Thirteenth Amendment) Bill, 1962.	Constitution (Thirteenth Amendment) Act, 1962.	—
17.	Constitution (Fourteenth Amendment) Bill, 1962.	Constitution (Fourteenth Amendment) Act, 1962.	—
18.	Constitution (Fifteenth Amendment) Bill, 1962.	Constitution (Fifteenth Amendment) Act, 1963.	—
19.	Constitution (Sixteenth Amendment) Bill, 1963.	Constitution (Sixteenth Amendment) Act, 1963.	—

1	2	3	4
20.	Constitution (Seventeenth Amendment) Bill, 1963.	—	Negated as the motion for consideration of the Bill, as reported by the Joint Committee, was not carried by a requisite majority in accordance with the provisions of the Constitution.
21.	Constitution (Eighteenth Amendment) Bill, 1964.	—	Lapsed on the dissolution of Third Lok Sabha.
22.	Constitution (Nineteenth Amendment) Bill, 1964.	Constitution (Seventeenth Amendment) Act, 1964.	—
23.	Constitution (Nineteenth Amendment) Bill, 1966.	—	Negated as the motion for consideration of the Bill was not carried by a requisite majority in accordance with the provisions of the Constitution.
24.	Constitution (Twentieth Amendment) Bill, 1966.	Constitution (Eighteenth Amendment) Act, 1966.	—
25.	Constitution (Twenty-first Amendment) Bill, 1966.	Constitution (Nineteenth Amendment) Act, 1966.	—
26.	Constitution (Twenty-third Amendment) Bill, 1966.	Constitution (Twentieth Amendment) Act, 1966.	—
27.	Constitution (Twenty-first Amendment) Bill, 1967.	Constitution (Twenty-first Amendment) Act, 1967.	—
28.	Constitution (Twenty-second Amendment) Bill, 1968.	—	The Bill, as reported by Joint Committee, was withdrawn by the leave of the House.

1	2	3	4
29.	Constitution (Twenty-second Amendment) Bill, 1969.	Constitution (Twenty-second Amendment) Act, 1969.	—
30.	Constitution (Twenty-third Amendment) Bill, 1969.	Constitution (Twenty-third Amendment) Act, 1969.	—
31.	Constitution (Twenty-fourth Amendment) Bill, 1970.	—	Negatived as the motion for consideration of the Bill, as passed by Lok Sabha, was not carried by a requisite majority in accordance with the provisions of the Constitution.
32.	Constitution (Twenty-fourth Amendment) Bill, 1971.	Constitution (Twenty-fourth Amendment) Act, 1971.	—
33.	Constitution (Twenty-fifth Amendment) Bill, 1971.	Constitution (Twenty-fifth Amendment) Act, 1971.	—
34.	Constitution (Twenty-sixth Amendment) Bill, 1971.	Constitution (Twenty-sixth Amendment) Act, 1971.	—
35.	Constitution (Twenty-seventh Amendment) Bill, 1971.	Constitution (Twenty-seventh Amendment) Act, 1971.	—
36.	Constitution (Twenty-eighth Amendment) Bill, 1971.	—	Removed from the register of Bill as its provisions were included in the Constitution (Forty-second Amendment) Act, 1976.
37.	Constitution (Twenty-ninth Amendment) Bill, 1972.	—	Lapsed on the dissolution of Fifth Lok Sabha.
38.	Constitution (Thirtieth Amendment) Bill, 1972.	Constitution (Thirtieth Amendment) Act, 1972.	—

1	2	3	4
39.	Constitution (Thirty-first Amendment) Bill, 1972.	Constitution (Twenty-eighth Amendment) Act, 1972.	—
40.	Constitution (Thirty-second Amendment) Bill, 1972.	Constitution (Twenty-ninth Amendment) Act, 1972.	—
41.	Constitution (Thirty-first Amendment) Bill, 1973.	Constitution (Thirty-first Amendment) Act, 1973.	—
42.	Constitution (Thirty-second Amendment) Bill, 1973.	—	Lapsed on the dissolution of Fifth Lok Sabha.
43.	Constitution (Thirty-third Amendment) Bill, 1973.	Constitution (Thirty-second Amendment) Act, 1973.	—
44.	Constitution (Thirty-fourth Amendment) Bill, 1974.	Constitution (Thirty-fourth Amendment) Act, 1974.	—
45.	Constitution (Thirty-fifth Amendment) Bill, 1974.	Constitution (Thirty-third Amendment) Act, 1974.	—
46.	Constitution (Thirty-sixth Amendment) Bill, 1974.	Constitution (Thirty-fifth Amendment) Act, 1974.	—
47.	Constitution (Thirty-seventh Amendment) Bill, 1975.	Constitution (Thirty-seventh Amendment) Act, 1975.	—
48.	Constitution (Thirty-eighth Amendment) Bill, 1975.	Constitution (Thirty-sixth Amendment) Act, 1975.	—
49.	Constitution (Thirty-ninth Amendment) Bill, 1975.	Constitution (Thirty-eighth Amendment) Act, 1975.	—
50.	Constitution (Fortieth Amendment) Bill, 1975.	Constitution (Thirty-ninth Amendment) Act, 1975.	—
51.	Constitution (Forty-first Amendment) Bill, 1975.	—	Lapsed on the dissolution of Fifth Lok Sabha.

1	2	3	4
52.	Constitution (Forty-second Amendment) Bill, 1976.	Constitution (Fortieth Amendment) Act, 1976.	—
53.	Constitution (Forty-third Amendment) Bill, 1976.	Constitution (Forty-first Amendment) Act, 1976.	—
54.	Constitution (Forty-fourth Amendment) Bill, 1976.	Constitution (Forty-second Amendment) Act, 1976.	—
55.	Constitution (Forty-third Amendment) Bill, 1977.	—	Lapsed on the dissolution of Sixth Lok Sabha.
56.	Constitution (Forty-fourth Amendment) Bill, 1977.	Constitution (Forty-third Amendment) Act, 1977.	—
57.	Constitution (Forty-fifth Amendment) Bill, 1978.	Constitution (Forty-fourth Amendment) Act, 1978.	—
58.	Constitution (Forty-sixth Amendment) Bill, 1978.	—	Negated as the motion for consideration of the Bill was not carried by Lok Sabha by requisite majority.
59.	Constitution (Forty-seventh Amendment) Bill, 1978.	—	Lapsed on the dissolution of Sixth Lok Sabha.
60.	Constitution (Forty-eighth Amendment) Bill, 1978.	—	Withdrawn as the motion for introduction of the Bill was opposed.
61.	Constitution (Forty-ninth Amendment) Bill, 1979.	—	Lapsed on the dissolution of Sixth Lok Sabha.
62.	Constitution (Fiftieth Amendment) Bill, 1979.	—	Lapsed on the dissolution of Sixth Lok Sabha.

1	2	3	4
63.	Constitution (Forty-fifth Amendment) Bill, 1980.	Constitution (Forty-fifth Amendment) Act, 1980.	—
64.	Constitution (Forty-sixth Amendment) Bill, 1982.	Constitution (Forty-sixth Amendment) Act, 1982.	—
65.	Constitution (Forty-seventh Amendment) Bill, 1982.	—	Negatived as the motion for consideration of the Bill was not carried in Lok Sabha in accordance with the provisions of Rule 157 and the Constitution.
66.	Constitution (Forty-eighth Amendment) Bill, 1983.	Constitution (Forty-seventh Amendment) Act, 1984.	—
67.	Constitution (Forty-ninth Amendment) Bill, 1983.	—	Not Introduced.
68.	Constitution (Fiftieth Amendment) Bill, 1984.	Constitution (Forty-eighth Amendment) Act, 1984.	—
69.	Constitution (Fifty-first Amendment) Bill, 1984.	Constitution (Forty-ninth Amendment) Act, 1984.	—
70.	Constitution (Fifty-second Amendment) Bill, 1984.	Constitution (Fiftieth Amendment) Act, 1984.	—
71.	Constitution (Fifty-third Amendment) Bill, 1984.	Constitution (Fifty-first Amendment) Act, 1984.	—
72.	Constitution (Fifty-second Amendment) Bill, 1985.	Constitution (Fifty-second Amendment) Act, 1985.	—
73.	Constitution (Fifty-third Amendment) Bill, 1986.	Constitution (Fifty-third Amendment) Act, 1986.	—
74.	Constitution (Fifty-fourth Amendment) Bill, 1986.	Constitution (Fifty-fourth Amendment) Act, 1986.	—
75.	Constitution (Fifty-fifth Amendment) Bill, 1986.	Constitution (Fifty-fifth Amendment) Act, 1986.	—

1	2	3	4
76.	Constitution (Fifty-sixth Amendment) Bill, 1987.	Constitution (Fifty-eighth Amendment) Act, 1987.	—
77.	Constitution (Fifty-seventh Amendment) Bill, 1987.	Constitution (Fifty-sixth Amendment) Act, 1987.	—
78.	Constitution (Fifty-eighth Amendment) Bill, 1987.	Constitution (Fifty-seventh Amendment) Act, 1987.	—
79.	Constitution (Fifty-ninth Amendment) Bill, 1988.	Constitution (Fifty-ninth Amendment) Act, 1988.	—
80.	Constitution (Sixtieth Amendment) Bill, 1988.	Constitution (Sixtieth Amendment) Act, 1988.	—
81.	Constitution (Sixty-first Amendment) Bill, 1988.	—	Introduced in Rajya Sabha. Pending.
82.	Constitution (Sixty-second Amendment) Bill, 1988.	Constitution (Sixty-first Amendment) Act, 1988.	—
83.	Constitution (Sixty-second Amendment) Bill, 1989.	Constitution (Sixty-second Amendment) Act, 1989.	—
84.	Constitution (Sixty-third Amendment) Bill, 1989.	—	Lapsed. The Bill as passed by Lok Sabha and pending in Rajya Sabha was lapsed on the dissolution of Eighth Lok Sabha.
85.	Constitution (Sixty-fourth Amendment) Bill, 1989.	—	Negated as the motion for consideration of the Bill, as passed by Lok Sabha, was not carried by a requisite majority in accordance with the provisions of article 368 of the Constitution, in Rajya Sabha.

1	2	3	4
86.	Constitution (Sixty-fifth Amendment) Bill, 1989.	—	Negated as the motion for consideration of the Bill, as passed by Lok Sabha was not carried by a requisite majority in accordance with the provisions of article 368 of the Constitution, in Rajya Sabha.
87.	Constitution (Sixty-third Amendment) Bill, 1989.	Constitution (Sixty-third Amendment) Act, 1989.	—
88.	Constitution (Sixty-fourth Amendment) Bill, 1990.	—	Negated as the motion for consideration of the Bill, as passed by Rajya Sabha, was not carried in accordance with the provision of Rule 157 and the Constitution.
89.	Constitution (Sixty-fifth Amendment) Bill, 1990.	Constitution (Sixty-fourth Amendment) Act, 1990.	—
90.	Constitution (Sixty-sixth Amendment) Bill, 1990.	Constitution (Sixty-sixth Amendment) Act, 1990.	—
91.	Constitution (Sixty-seventh Amendment) Bill, 1990.	—	Lapsed on the dissolution of Ninth Lok Sabha.
92.	Constitution (Sixty-eighth Amendment) Bill, 1990.	Constitution (Sixty-fifth Amendment) Act, 1990.	—
93.	Constitution (Sixty-ninth Amendment) Bill, 1990.	—	Lapsed on the dissolution of Ninth Lok Sabha.
94.	Constitution (Seventieth Amendment) Bill, 1990.	—	Withdrawn by the leave of the House.

1	2	3	4
95.	Constitution (Seventy-first Amendment) Bill, 1990.	—	Withdrawn by the leave of the House.
96.	Constitution (Seventy-second Amendment) Bill, 1990.	—	Lapsed on the dissolution of Ninth Lok Sabha.
97.	Constitution (Seventy-third Amendment) Bill, 1990.	—	Lapsed on the dissolution of Ninth Lok Sabha.
98.	Constitution (Seventy-fourth Amendment) Bill, 1990.	—	Lapsed on the dissolution of Ninth Lok Sabha.
99.	Constitution (Seventy-fifth Amendment) Bill, 1990.	—	Negatived as the motion for consideration of the Bill was not carried in Lok Sabha in accordance with the provision of Rule 157 and the Constitution.
100.	Constitution (Seventy-sixth Amendment) Bill, 1990.	Constitution (Sixty-seventh Amendment) Act, 1990.	—
101.	Constitution (Seventy-second Amendment) Bill, 1991.	Constitution (Seventy-third Amendment) Act, 1992.	—
102.	Constitution (Seventy-third Amendment) Bill, 1991.	Constitution (Seventy-fourth Amendment) Act, 1992.	—
103.	Constitution (Seventy-fourth Amendment) Bill, 1991.	Constitution (Sixty-ninth Amendment) Act, 1991.	—
104.	Constitution (Seventy-fifth Amendment) Bill, 1991.	Constitution (Sixty-eighth Amendment) Act, 1991.	—
105.	Constitution (Seventy-fifth Amendment) Bill, 1992.	Constitution (Seventy-second Amendment) Act, 1992.	—

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106.	Constitution (Seventy-sixth Amendment) Bill, 1992.	Constitution (Seventieth Amendment) Act, 1992.	—
107.	Constitution (Seventy-seventh Amendment) Bill, 1992.	Constitution (Seventy-fifth Amendment) Act, 1994.	—
108.	Constitution (Seventy-eighth Amendment) Bill, 1992.	Constitution (Seventy-first Amendment) Act, 1992.	—
109.	Constitution (Seventy-ninth Amendment) Bill, 1992.	—	Introduced in Rajya Sabha. Pending.
110.	Constitution (Eightieth Amendment) Bill, 1993.	—	Lapsed on the dissolution of Tenth Lok Sabha.
111.	Constitution (Eighty-first Amendment) Bill, 1994.	Constitution (Seventy-eighth Amendment) Act, 1995.	—
112.	Constitution (Eighty-second Amendment) Bill, 1994.	—	Not Introduced.
113.	Constitution (Eighty-third Amendment) Bill, 1994.	—	Not Introduced.
114.	Constitution (Eighty-fourth Amendment) Bill, 1994.	—	Lapsed on the dissolution of Tenth Lok Sabha.
115.	Constitution (Eighty-fifth Amendment) Bill, 1994.	Constitution (Seventy-sixth Amendment) Act, 1994.	—
116.	Constitution (Eighty-sixth Amendment) Bill, 1995.	Constitution (Seventy-seventh Amendment) Act, 1995.	—
117.	Constitution (Eightieth Amendment) Bill, 1996.	—	Lapsed on the dissolution of Eleventh Lok Sabha.
118.	Constitution (Eighty-first Amendment) Bill, 1996.	—	Lapsed on the dissolution of Eleventh Lok Sabha.
119.	Constitution (Eighty-third Amendment) Bill, 1997.	—	The Bill was withdrawn with a view to bring in a new Bill in the light of the recommendations of

1	2	3	4
120.	Constitution (Eighty-fourth Amendment) Bill, 1998.	—	the Standing Committee on Human Resource Development and the Report of the Law Commission.
121.	Constitution (Eighty-fifth Amendment) Bill, 1998.	—	Lapsed on the dissolution of Twelfth Lok Sabha.
122.	Constitution (Eighty-fourth Amendment) Bill, 1999.	Constitution (Seventy-ninth Amendment) Act, 1999.	—
123.	Constitution (Eighty-fifth Amendment) Bill, 1999.	—	Lapsed on the dissolution of Thirteenth Lok Sabha.
124.	Constitution (Eighty-sixth Amendment) Bill, 1999.	Constitution (Eighty-third Amendment) Act, 2000.	—
125.	Constitution (Eighty-seventh Amendment) Bill, 1999.	—	Withdrawn by the leave of the Rajya Sabha.
126.	Constitution (Eighty-eighth Amendment) Bill, 1999.	Constitution (Eighty-second Amendment) Act, 2000.	—
127.	Constitution (Eighty-ninth Amendment) Bill, 2000.	Constitution (Eightieth Amendment) Act, 2000.	—
128.	Constitution (Ninetieth Amendment) Bill, 2000.	Constitution (Eighty-first Amendment) Act, 2000.	—
129.	Constitution (Ninety-first Amendment) Bill, 2000.	Constitution (Eighty-fourth Amendment) Act, 2001.	—
130.	Constitution (Ninety-second Amendment) Bill, 2001.	Constitution (Eighty-fifth Amendment) Act, 2001.	—
131.	Constitution (Ninety-third Amendment) Bill, 2001.	Constitution (Eighty-sixth Amendment) Act, 2002.	—
132.	Constitution (Ninety-fourth Amendment) Bill, 2002.	Constitution (Eighty-ninth Amendment) Act, 2003.	—

1	2	3	4
133.	Constitution (Ninety-fifth Amendment) Bill, 2003.	Constitution (Eighty-eighth Amendment) Act, 2003.	—
134.	Constitution (Ninety-sixth Amendment) Bill, 2003.	Constitution (Eighty-seventh Amendment) Act, 2003.	—
135.	Constitution (Ninety-seventh Amendment) Bill, 2003.	Constitution (Ninety-first Amendment) Act, 2003.	—
136.	Constitution (Ninety-eighth Amendment) Bill, 2003.	—	Lapsed on the dissolution of Thirteenth Lok Sabha.
137.	Constitution (Ninety-ninth Amendment) Bill, 2003.	Constitution (Ninetieth Amendment) Act, 2003.	—
138.	Constitution (One-hundredth Amendment) Bill, 2003.	Constitution (Ninety-second Amendment) Act, 2003.	—
139.	Constitution (One hundred-first Amendment) Bill, 2003.	—	Lapsed on the dissolution of Thirteenth Lok Sabha.
140.	Constitution (One hundred-second Amendment) Bill, 2003.	—	Lapsed on the dissolution of Thirteenth Lok Sabha.
141.	Constitution (One hundred-fourth Amendment) Bill, 2005.	Constitution (Ninety-third Amendment) Act, 2005.	—
142.	Constitution (One hundred-fifth Amendment) Bill, 2006.	Constitution (Ninety-fourth Amendment) Act, 2006.	—
143.	Constitution (One hundred-sixth Amendment) Bill, 2006	—	Introduced in Lok Sabha. Pending.
144.	Constitution (One hundred-seventh Amendment) Bill, 2007	—	Introduced in Lok Sabha. Pending.

**ANNEXURE (E)**

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**THE CONSTITUTION OF INDIA**  
**(As Adopted)**

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# **THE CONSTITUTION OF INDIA**

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

JUSTICE, social, economic and political;

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

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

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

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

# PART I

## THE UNION AND ITS TERRITORY

Name and  
territory of  
the Union.

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

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule.

(3) The territory of India shall comprise—

- (a) the territories of the States;
- (b) the territories specified in Part D of the First Schedule; and
- (c) such other territories as may be acquired.

Admission  
or estab-  
lishment  
of new  
States.

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

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

**3.** Parliament may by law—

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

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 boundaries of any State or States specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.

- 4.** (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.
- (2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.
- 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.

Citizen-  
ship at the  
commen-  
cement of  
the  
Constitu-  
tion.

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

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

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

shall be a citizen of India.

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

- (a) he or either of his parents or any of his 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.** Notwithstanding anything in articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Rights of citizenship of certain migrants to Pakistan.

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

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

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

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.

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

Continuance of the rights of citizenship.

Parliament to regulate the right of citizenship by law.

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

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

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

## PART III

### FUNDAMENTAL RIGHTS

#### *General*

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

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

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

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

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

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this

Laws  
inconsis-  
tent with  
or in  
derogation  
of the  
fundamen-  
tal rights.

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.

*Right to Equality*

Equality before law.

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

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

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

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

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

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

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

Equality of opportunity in matters of public employment.

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

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

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under any State specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State 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.

(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.

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

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

(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*

Protection  
of certain  
rights  
regarding  
freedom  
of speech,  
etc.

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

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so

far as it imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

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

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

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law prescribing or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

Protection  
in respect  
of convic-  
tion for  
offences.

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

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

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

Protection  
of life and  
personal  
liberty.

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

Protection  
against  
arrest and  
detention  
in certain  
cases.

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

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place 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:

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).

*Right against Exploitation*

Prohibition of traffic in human beings and forced labour.

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

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

Prohibition of employment of children in factories, etc.

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

*Right to Freedom of Religion*

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

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

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

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

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

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

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

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

Freedom  
to manage  
religious  
affairs.

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

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

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

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

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

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

*Cultural and Educational Rights*

Protection of interests of minorities.

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

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

Right of minorities to establish and administer educational institutions.

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

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is

under the management of a minority, whether based on religion or language.

*Right to Property*

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

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

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

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

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

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

Compulsory  
acquisition  
of prop-  
erty.

- (b) the provisions of any law which the State may hereafter make—
- (i) for the purpose of imposing or levying any tax or penalty, or
  - (ii) for the promotion of public health or the prevention of danger to life or property, or
  - (iii) in pursuance of any agreement entered into between the Government of the Dominion of India or the Government of India and the Government of any other country, or otherwise, with respect to property declared by law to be evacuee property.

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

*Right to Constitutional Remedies*

Remedies  
for  
enforce-  
ment of  
rights  
conferred  
by this  
Part.

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

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

enforcement of any of the rights conferred by this Part.

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

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

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

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

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

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

**35.** Notwithstanding anything in this Constitution,—

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

Legislation to give effect to the provisions of this Part.

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

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

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

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

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that childhood and youth are protected against exploitation and against moral and material abandonment.

Organisation  
of village  
panchayats.

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

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

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

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

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

Living  
wage, etc.,  
for  
workers.

**43.** The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social

and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

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

Uniform civil code for the citizens.

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

Provision for free and compulsory education for children.

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

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

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

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

**48.** The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and

Organisation of agriculture and animal husbandry.

Protection of monuments and places and objects of national importance.

Separation of judiciary from executive.

Promotion of international peace and security.

prohibiting the slaughter, of cows and calves and other milch and draught cattle.

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

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

**51.** The State shall endeavour to—

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

# PART V

## THE UNION

### CHAPTER I.—THE EXECUTIVE

#### *The President and Vice-President*

**52.** There shall be a President of India.

The  
President  
of India.

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

Executive  
power of  
the Union.

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

(3) Nothing in this article shall—

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

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

Election  
of Presi-  
dent.

- (a) the elected members of both Houses of Parliament; and

Manner of  
election of  
President.

(b) the elected members of the Legislative Assemblies of the States.

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

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

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

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

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

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

*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.

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

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.

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

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

- (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 or Rajpramukh or Uparajpramukh of any State or is a Minister either for the Union or for any State.

Conditions  
of  
President's  
office.

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

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

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

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

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

Oath or affirmation by the President.

“I, A.B., do swear in the name of God that I will solemnly affirm faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India”.

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

Procedure for impeachment of the President.

(2) No such charge shall be preferred unless—

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

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

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

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

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

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

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

The Vice-President of India.

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

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

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

Provided that during any period when the Vice-President acts as President or discharges

the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

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

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

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

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

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

Election of Vice-President.

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

(3) No person shall be eligible for election as Vice-President unless he—

- (a) is a citizen of India;
- (b) has completed the age of thirty-five years; and
- (c) is qualified for election as a member of the Council of States.

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

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

Term of  
office of  
Vice-  
President.

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

Provided that—

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

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

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

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

“I, A.B., do swear in the name of God that I will bear  
solemnly affirm  
 true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.”

Discharge  
of  
President's  
functions  
in other  
contingen-  
cies.

Matters  
relating to  
or con-  
nected  
with the  
election of  
a Presi-  
dent or  
Vice-  
President.

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

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

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

(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.

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

(a) in all cases where the punishment or sentence is by a Court Martial;

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

(c) in all cases where the sentence is a sentence of death.

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

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

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

Extent of executive power of the Union.

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

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

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State specified in Part A or Part B of the First Schedule to matters with respect to which the Legislature of the State has also power to make laws.

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

the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

*Council of Ministers*

Council of  
Ministers  
to aid and  
advise  
President.

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

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

Other  
provisions  
as to  
Ministers.

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

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

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

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

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

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

*The Attorney-General for India*

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

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

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

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

*Conduct of Government Business*

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

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules 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.

Duties of  
Prime  
Minister  
as respects  
the  
furnishing  
of infor-  
mation to  
the  
President,  
etc.

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

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

## CHAPTER II.—PARLIAMENT

### *General*

Constitu-  
tion of  
Parlia-  
ment.

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

Composi-  
tion of the  
Council of  
States.

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

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

(b) not more than two hundred and thirty-eight representatives of the States.

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

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

Literature, science, art and social service.

(4) The representatives of each State specified in Part A or Part B of the First Schedule 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 States specified in Part C of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

**81.** (1) (a) Subject to the provisions of clause (2) and of articles 82 and 331, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States.

Composition of the House of the People.

(b) For the purpose of sub-clause (a), the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population.

(c) The ratio between the number of members allotted to each territorial constituency and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as

practicable, be the same throughout the territory of India.

(2) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide.

(3) Upon the completion of each census, the representation of the several territorial constituencies in the House of the People shall be readjusted by such authority, in such manner and with effect from such date 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.

Special provision as to representation of States in Part C and territories other than States.

Duration of Houses of Parliament.

**82.** Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause.

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

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

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

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

- (a) is a citizen of India;
- (b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Qualification for membership of Parliament.

**85.** (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

Sessions of Parliament, prorogation and dissolution.

(2) Subject to the provisions of clause (1), the President may from time to time—

- (a) summon the Houses or either House to meet at such time and place as he thinks fit;
- (b) prorogue the Houses;
- (c) dissolve the House of the People.

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

Right of President to address and send messages to Houses.

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

Special address by the President at the commencement of every session.

**87.** (1) At the commencement of every session 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 and for the precedence of such discussion over other business of the House.

Rights of Ministers and Attorney-General as respects Houses.

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

#### *Officers of Parliament*

The Chairman and Deputy Chairman of the Council of States.

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

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

- 90.** A member holding office as Deputy Chairman of the Council of States—
- (a) shall vacate his office if he ceases to be a member of the Council;
  - (b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and
  - (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

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

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

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

**92.** (1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2)

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

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

The  
Chairman  
or the  
Deputy  
Chairman  
not to  
preside  
while a  
resolution

for his removal from office is under consideration.

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.

(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.

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

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

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

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

- (a) shall vacate his office if he ceases to be a member of the House of the People;
- (b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (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.** (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.** (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

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

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

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.

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

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

Secretariat  
of Parlia-  
ment.

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

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

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

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

*Conduct of Business*

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

Oath or affirmation by members.

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

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

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

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

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

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

*Disqualifications of Members*

Vacation  
of seats.

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

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State specified in Part A or Part B of the First Schedule, and if a person is chosen a member both of Parliament and of a House of the Legislature of such 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 clause (1) of article 102, or
- (b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be,

his seat shall thereupon become vacant.

(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.

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

Disqualifications for membership.

- (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.

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

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

Decision on questions as to disqualifications of members.

(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.

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

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

Powers,  
privileges,  
etc., of the  
Houses of  
Parliament  
and of the  
members  
and  
commit-  
tees  
thereof.

*Powers, Privileges and Immunities of  
Parliament and its Members*

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

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

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

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

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

Salaries  
and  
allowances  
of mem-  
bers.

*Legislative Procedure*

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

Provisions  
as to  
introduc-  
tion and  
passing of  
Bills.

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

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

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

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

Joint  
sitting of  
both  
Houses in  
certain  
cases.

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

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

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

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

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

(3) Where the President has under clause (1) notified his intention of summoning the Houses

to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

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

Provided that at a joint sitting—

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

Special  
procedure  
in respect  
of Money  
Bills.

intervened since the President notified his intention to summon the Houses to meet therein.

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

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its 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.** (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;
- (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,

Definition of "Money Bills".

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.

Assent to Bills.

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

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

*Procedure in Financial Matters*

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

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

- (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India,

and shall distinguish expenditure on revenue account from other expenditure.

(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 a Province corresponding to a State specified in Part A of First Schedule;
- (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.

Procedure  
in Parlia-  
ment with  
respect to  
estimates.

**113.** (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.

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

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

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

- (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.

Supple-  
mentary,  
additional  
or excess  
grants.

**115.** (1) The President shall—

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

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

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

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

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

Votes on account, votes of credit and exceptional grants.

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

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

Special provisions as to financial Bills.

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

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

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

Rules of procedure.

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

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of

the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

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

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

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

Regulation  
by law of  
procedure  
in Parlia-  
ment in  
relation to  
financial  
business.

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

Language  
to be used  
in Parlia-  
ment.

Provided that the Chairman of the Council of States or Speaker of the House of the People,

or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother-tongue.

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

Restriction  
on  
discussion  
in Parlia-  
ment.

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

Courts not  
to inquire  
into  
proceed-  
ings of  
Parlia-  
ment.

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

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

### CHAPTER III.—LEGISLATIVE POWERS OF THE PRESIDENT

Power of  
President  
to promul-  
gate  
Ordi-  
nances  
during  
recess of  
Parlia-  
ment.

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

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

- (a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the 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
- (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.

#### CHAPTER IV.—THE UNION JUDICIARY

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

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

- (a) a Judge may, by writing under his hand addressed to the President, resign his office;
- (b) a Judge may be removed from his office in the manner provided in clause (4).

(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.

**125.** (1) There shall be paid to the Judges of the Supreme Court such salaries as are specified in the Second Schedule. Salaries,  
etc., of  
Judges.

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

Appoint-  
ment of  
acting  
Chief  
Justice.

Appoint-  
ment of  
*ad hoc*  
Judges.

Atten-  
dance of  
retired  
Judges at  
sittings of  
the  
Supreme  
Court.

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

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

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

**128.** Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court to sit and act as a Judge of the

Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

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

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

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

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

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

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

Provided that the said jurisdiction shall not extend to—

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

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

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

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

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

*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.** (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 if the High Court certifies—  
*(a)* that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees or such other sum as may be specified in that behalf by Parliament by law; or  
*(b)* that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or  
*(c)* that the case is a fit one for appeal to the Supreme Court;

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

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below in any case other than a case referred to in sub-clause (c), if the High Court further certifies that the appeal involves some substantial question of law.

- (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.

Appellate jurisdiction of Supreme Court in regard to criminal matters.

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

- (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) certifies that the case is a fit one for appeal to the Supreme Court:

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

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

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

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

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

Special  
leave to  
appeal by  
the  
Supreme  
Court.

(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.** 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.

Review of  
judgments  
or orders  
by the  
Supreme  
Court.

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

Enlarge-  
ment of  
the  
jurisdi-  
ction of the  
Supreme  
Court.

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

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

Confer-  
ment on  
the  
Supreme  
Court of  
powers to  
issue  
certain  
writs.

Ancillary powers of Supreme Court.

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

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

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

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

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

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

Power of President to consult Supreme Court.

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

hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in clause (i) of the proviso to article 131, refer a dispute of the kind mentioned in the said clause 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.** All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

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

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

Rules of Court, etc.

- (a) rules as to the persons practising before the Court;
- (b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;
- (c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III;
- (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 provisions of 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) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the

determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

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

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

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

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.

Officers  
and  
servants  
and the  
expenses  
of the  
Supreme  
Court.

(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.

Interpre-  
tation.

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

#### CHAPTER V.—COMPTROLLER AND AUDITOR-GENERAL OF INDIA

Comptrol-  
ler and  
Auditor-  
General of  
India.

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

(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.** 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 Duties and powers of the Comptroller and Auditor-General.

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.

Power of  
Comptrol-  
ler and  
Auditor-  
General to  
give  
directions  
as to  
accounts.

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

Audit  
reports.

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

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

# PART VI

## THE STATES IN PART A OF THE FIRST SCHEDULE

### CHAPTER I.—GENERAL

**152.** In this Part, unless the context otherwise requires, the expression “State” means a State specified in Part A of the First Schedule. Definition.

### CHAPTER II.—THE EXECUTIVE

#### *The Governor*

**153.** There shall be a Governor for each State. Governors of States.

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

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

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

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

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

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

Qualifications for appointment as Governor.

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

Conditions of Governor's office.

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

(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.

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

**159.** Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the seniormost 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 solemnly affirm that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of \_\_\_\_\_ (*name of the State*) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of \_\_\_\_\_ (*name of the State*).”

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

Oath or affirmation by the Governor.

Discharge of the functions of the Governor in certain contingencies.

**161.** The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

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

Extent of executive power of State.

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

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

*Council of Ministers*

Council of Ministers to aid and advise Governor.

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

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(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.

Other provisions as to Ministers.

**164.** (1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the

Ministers shall hold office during the pleasure of the Governor:

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

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

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

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

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

*The Advocate-General for the State*

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

Advocate-General for the State.

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

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

*Conduct of Government Business*

Conduct  
of busi-  
ness of  
the  
Govern-  
ment of a  
State.

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

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

(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.

Duties of  
Chief  
Minister  
as respects  
the  
furnishing  
of infor-  
mation to  
Governor,  
etc.

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

(a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

### CHAPTER III.—THE STATE LEGISLATURE

#### *General*

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

Constitu-  
tion of  
Legisla-  
tures in  
States.

(a) in the States of Bihar, Bombay, Madras, Punjab, the United Provinces and West Bengal, two Houses;

(b) in other States, one House.

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

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

Abolition  
or creation  
of Legisla-  
tive  
Councils  
in States.

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

contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

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

Composition  
of the  
Legislative  
Assem-  
blies.

**170.** (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published and shall, save in the case of the autonomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, be on a scale of not more than one member for every seventy-five thousand of the population:

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than five hundred or less than sixty.

(3) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of

each State shall be readjusted by such authority, in such manner and with effect from such date 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.

**171.** (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one-fourth 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

Composition of the Legislative Councils.

by or under any law made by Parliament as equivalent to that of a graduate of any such university;

- (c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;
- (d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;
- (e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

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

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

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

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

Duration  
of State  
Legisla-  
tures.

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

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

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

Qualifica-  
tion for  
member-  
ship of the  
State  
Legisla-  
ture.

- (a) is a citizen of India;
- (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.

**174.** (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

Sessions of  
the State  
Legislature,  
prorogation  
and  
dissolution.

(2) Subject to the provisions of clause (1), the Governor may from time to time—

- (a) summon the House or either House to meet at such time and place as he thinks fit;
- (b) prorogue the House or Houses;
- (c) dissolve the Legislative Assembly.

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

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

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

Special address by the Governor at the commencement of every session.

**176.** (1) At the commencement of every session, 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 and for the precedence of such discussion over other business of the House.

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

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

*Officers of the State Legislature*

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

The  
Speaker  
and  
Deputy  
Speaker of  
the  
Legislative  
Assembly.

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

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

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

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

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

Provided that no resolution for the purpose of clause (c) shall be moved unless at least

fourteen days' notice has been given of the intention to move the resolution:

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

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

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

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

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

**181.** (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker, from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration

in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

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

The  
Chairman  
and  
Deputy  
Chairman  
of the  
Legislative  
Council.

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

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

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

Power of  
the  
Deputy  
Chairman  
or other  
person to  
perform

the duties  
of the  
office of,  
or to act  
as,  
Chairman.

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

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

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

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

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

Secretariat  
of State  
Legisla-  
ture.

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.** 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.

Oath or  
affirmation  
by  
members.

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

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

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

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

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

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

#### *Disqualifications of Members*

Vacation of seats.

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

who is chosen a member of both Houses of his seat in one House or the other.

(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 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 clause (1) of article 191; or
- (b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(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.

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

Disqualifications for membership.

- (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.

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

Decision  
on  
questions  
as to  
disqualifi-  
cations of  
members.

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

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

**193.** If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he 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.

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

*Powers, Privileges and Immunities of State  
Legislatures and their Members*

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

Powers,  
privileges,  
etc., of the  
Houses of  
Legisla-  
tures and  
of the  
members  
and  
commit-  
tees  
thereof.

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

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

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

Salaries  
and  
allowances  
of mem-  
bers.

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

Provisions  
as to  
introduc-  
tion and  
passing of  
Bills.

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

(2) Subject to the provisions of articles 197 and 198, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

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

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

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

- (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,

Restriction  
on powers  
of Legisla-  
tive  
Council as  
to Bills  
other than  
Money  
Bills.

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

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

- (a) the Bill is rejected by the Council; or
- (b) more than one month elapses from the date on which the Bill is laid before the

Council without the Bill being passed by it; or

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

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

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

Special procedure in respect of Money Bills.

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

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

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

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

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

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

Definition  
of “Money  
Bills”.

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;
- (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State;

- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or
- (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

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

Assent to  
Bills.

**200.** When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the

State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

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

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

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

Bills  
reserved  
for  
consid-  
eration.

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*

Annual financial statement.

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

(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.** (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.

Procedure  
in Legisla-  
ture with  
respect to  
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.

Appropria-  
tion Bills.

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

- (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.

Supple-  
mentary,  
additional  
or excess  
grants.

**205.** (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.** (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

Votes on account, votes of credit and exceptional grants.

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.

Special provisions as to financial Bills.

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

making such provision shall not be introduced in a Legislative Council:

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

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

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

*Procedure Generally*

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

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

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

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

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

Language to be used in the Legislature.

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

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

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

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

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

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

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

#### CHAPTER IV.—LEGISLATIVE POWER OF THE GOVERNOR

**213.** (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses 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: Power of Governor to promulgate Ordinances during recess of Legislature.

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.

#### CHAPTER V.—THE HIGH COURTS IN THE STATES

**214.** (1) There shall be a High Court for each State. High Courts for States.

(2) For the purposes of this Constitution the High Court exercising jurisdiction in relation to any Province immediately before the commencement of this Constitution shall be deemed to be the High Court for the corresponding State.

(3) The provisions of this Chapter shall apply to every High Court referred to in this article.

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

Constitu-  
tion of  
High  
Courts.

Appoint-  
ment and  
conditions  
of the  
office of a  
Judge of a  
High  
Court.

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

Provided that the Judges so appointed shall at no time exceed in number such maximum number as the President may, from time-to-time, by order fix in relation to that Court.

**217.** (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office until he attains the age of sixty years:

Provided that—

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

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

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

- (a) has for at least ten years held a judicial office in the territory of India; or
- (b) has for at least ten years been an advocate of a High Court in any State specified in the First Schedule or of two or more such Courts in succession.

*Explanation.*—For the purposes of this clause—

- (a) 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 has held judicial office after he became an advocate;
- (b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

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

Application of certain provisions relating to Supreme Court to High Courts.

Oath or affirmation by Judges of High Courts.

Prohibition of practising in courts or before any authority by Judges.

Salaries, etc., of Judges.

Transfer of a Judge from one High Court to another.

**219.** Every person appointed to be a Judge of a High Court in a State 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.

**220.** No person who has held office as a Judge of a High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the territory of India.

**221.** (1) There shall be paid to the Judges of each High Court 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.** (1) The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court within the territory of India.

(2) When a Judge is so transferred, he shall, during the period he serves as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may

be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix.

**223.** When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

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

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.

**225.** Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and

Appoint-  
ment of  
acting  
Chief  
Justice.

Atten-  
dance of  
retired  
Judges at  
sittings of  
High  
Courts.

Jurisdic-  
tion of  
existing  
High  
Courts.

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:

Provided that any restriction to which the exercise of original jurisdiction by any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

Power of  
High  
Courts to  
issue  
certain  
writs.

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

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

Power of  
superinten-  
dence over  
all courts  
by the  
High  
Court.

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

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

**228.** If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

Transfer  
of certain  
cases to  
High  
Court.

- (a) either dispose of the case itself, or
- (b) determine the said question of law and return the case to the court from which the case has been so withdrawn together

Officers  
and  
servants  
and the  
expenses  
of High  
Courts.

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.

**229.** (1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State in which the High Court has its principal seat 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 in which the High Court has its principal seat.

(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.

**230.** Parliament may by law—

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

Extension  
of or  
exclusion  
from the  
jurisdic-  
tion of  
High  
Courts.

any State specified in the First Schedule other than, or any area not within, the State in which the High Court has its principal seat.

**231.** Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

- (a) as empowering the Legislature of the State in which the Court has its principal seat to increase, restrict or abolish that jurisdiction;
- (b) as empowering the Legislature of a State specified in Part A or Part B of the First Schedule in which any such area is situate, to abolish that jurisdiction; or
- (c) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b), such laws with respect to the jurisdiction of the Court in relation to that area as it would be competent to pass if the principal seat of the Court were in that area.

Restric-  
tions on  
the powers  
of the  
Legisla-  
tures of  
States to  
make laws  
with  
respect to  
jurisdic-  
tion of a  
High  
Court in a  
State  
having  
jurisdic-  
tion  
outside  
that State.

**232.** Where a High Court exercises jurisdiction in relation to more than one State specified in the First Schedule or in relation to a State and an area not forming part of the State—

Interpreta-  
tion.

- (a) references in this Chapter to the Governor in relation to the Judges of a

High Court shall be construed as references to the Governor of the State in which the Court has its principal seat;

- (b) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor or the Rajpramukh of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State specified in Part A or Part B of the First Schedule, by the President; and
- (c) references to the Consolidated Fund of the State shall be construed as references to the Consolidated Fund of the State in which the Court has its principal seat.

#### CHAPTER VI—SUBORDINATE COURTS

Appointment of district judges.

**233.** (1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(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.

Recruitment of persons other than district judges to the judicial service.

**234.** Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

**235.** The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Control  
over  
subordi-  
nate  
courts.

**236.** In this Chapter—

Interpreta-  
tion.

(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.** 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.

Applica-  
tion of the  
provisions  
of this  
Chapter to  
certain  
class or  
classes of  
magis-  
trates.

## THE STATES IN PART B OF THE FIRST SCHEDULE

Application of provisions of Part VI to States in Part B of the First Schedule.

**238.** The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely:—

- (1) For the word “Governor” wherever it occurs in the said Part VI, except where it occurs for the second time in clause (b) of article 232, the word “Rajpramukh” shall be substituted.
- (2) In article 152, for the word and letter “Part A” the word and letter “Part B” shall be substituted.
- (3) Articles 155, 156 and 157 shall be omitted.
- (4) In article 158,—
  - (i) in clause (1), for the words “be appointed” the word “becomes” shall be substituted;
  - (ii) for clause (3), the following clause shall be substituted, namely:—

“(3) The Rajpramukh shall, unless he has his own residence in the principal seat of Government of the State, be entitled without payment of rent to the use of an official residence and shall be also entitled

to such allowances and privileges as the President may, by general or special order, determine.”;

(iii) in clause (4), the words “emoluments and” shall be omitted.

(5) In article 159, after the words “seniormost Judge of that Court available” the words “or in such other manner as may be prescribed in that behalf by the President” shall be inserted.

(6) In article 164, for the proviso to clause (1) the following proviso shall be substituted, namely:—

“Provided that in the State of Madhya Bharat 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.”

(7) In article 168, for clause (1) the following clause shall be substituted, namely:—

“(1) For every State there shall be a Legislature which shall consist of the Rajpramukh and—

- (a) in the State of Mysore, two Houses;
- (b) in other States, one House.”

(8) In article 186, for the words “as are specified in the Second Schedule” the words “as the Rajpramukh may determine” shall be substituted.

(9) In article 195, for the words “as were immediately before the commencement of this Constitution applicable in the

case of members of the Legislative Assembly of the corresponding Province" the words "as the Rajpramukh may determine" shall be substituted.

(10) In clause (3) of article 202—

(i) for sub-clause (a), the following sub-clause shall be substituted, namely:—

"(a) the allowances of the Rajpramukh and other expenditure relating to his office as determined by the President by general or special order;"

(ii) for sub-clause (f) the following sub-clauses shall be substituted, namely:—

"(f) in the case of the State of Travancore-Cochin, a sum of fifty-one lakhs of rupees required to be paid annually to the Devaswom fund under the covenant entered into before the commencement of this Constitution by the Rulers of the Indian States of Travancore and Cochin for the formation of the United State of Travancore and Cochin;

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

(11) In article 208, for clause (2), the following clause shall be substituted, namely:—

"(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 State or, where no House of the Legislature for the State existed, the rules of procedure and standing orders in force immediately before such commencement with respect to the Legislative Assembly of such Province as may be specified in that behalf by the Rajpramukh of the State, 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.”

- (12) In clause (2) of article 214, for the word “Province” the words “Indian State” shall be substituted.
- (13) For article 221, the following article shall be substituted, namely:—
221. (1) There shall be paid to the Judges of each High Court such salaries as may be determined by the President after consultation with the Rajpramukh.
- (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 may be determined by the President after consultation with the Rajpramukh:
- Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.”

## THE STATES IN PART C OF THE FIRST SCHEDULE

Administration of States in Part C of the First Schedule.

**239.** (1) Subject to the other provisions of this Part, a State specified in Part C of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Government of a neighbouring State:

Provided that the President shall not act through the Government of a neighbouring State save after—

- (a) consulting the Government concerned; and
- (b) ascertaining in such manner as the President considers most appropriate the views of the people of the State to be so administered.

(2) In this article, references to a State shall include references to a part of a State.

Creation or continuance of local Legislatures or Council of Advisers or Ministers.

**240.** (1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

- (a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or
- (b) a Council of Advisers or 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 the Constitution.

**241.** (1) Parliament may by law constitute a High Court for a State specified in Part C of the First Schedule or declare any court in any such State to be a High Court for all or any of the purposes of this Constitution. High Courts for States in Part C of the First Schedule.

(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.

(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 this Constitution in relation to any State specified in Part C of the First Schedule or any area included therein shall continue to exercise such jurisdiction in relation to that State or area after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court in any State specified in Part A or Part B of the First Schedule to, or

from, any State specified in Part C of that Schedule or any area included within that State.

Coorg.

**242.** (1) Until Parliament by law otherwise provides, the constitution, powers and functions of the Coorg Legislative Council shall be the same as they were immediately before the commencement of this Constitution.

(2) The arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall, until other provision is made in that behalf by the President by order, continue unchanged.

## PART IX

### THE TERRITORIES IN PART D OF THE FIRST SCHEDULE AND OTHER TERRITORIES NOT SPECIFIED IN THAT SCHEDULE

**243.** (1) Any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him.

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

Administration of territories specified in Part D of the First Schedule and other territories not specified in that Schedule.

## PART X

### THE SCHEDULED AND TRIBAL AREAS

Adminis-  
tration of  
Scheduled  
Areas and  
tribal  
areas.

**244.** (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State specified in Part A or Part B of the First Schedule other than the State of Assam.

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

# PART XI

## RELATIONS BETWEEN THE UNION AND THE STATES

### CHAPTER I.—LEGISLATIVE RELATIONS

#### *Distribution of Legislative Powers*

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

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

Extent of laws made by Parliament and by the Legislatures of States.

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

Subject-matter of laws made by Parliament and by the Legislatures of States.

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State specified in Part A or Part B of the First Schedule 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 specified in Part A or

Part B of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in Part A or Part B of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

Power of Parliament to provide for the establishment of certain additional courts.

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

Residuary powers of legislation.

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

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

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

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

(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.

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

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

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

Inconsistency between laws made by Parliament under articles 249 and 250 and laws made by the Legislatures of States.

Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.

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

**252.** (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

**253.** Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Legislation for giving effect to international agreements.

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

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

(2) Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule 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.

Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

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

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

## CHAPTER II.—ADMINISTRATIVE RELATIONS

### *General*

Obligation of States and the Union.

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

Control of the Union over States in certain cases.

**257.** (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

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

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

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

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

**258.** (1) Notwithstanding anything in this Power of 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 confer powers, etc., on States in certain cases.

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.

Armed Forces in States in Part B of the First Schedule.

**259.** (1) Notwithstanding anything in this Constitution, a State specified in Part B of the First Schedule having any Armed Forces immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said Forces after such commencement subject to such general or special orders as the President may from time to time issue in that behalf.

(2) Any such Armed Forces as are referred to in clause (1) shall form part of the Armed Forces of the Union.

Jurisdiction of the Union in relation to territories outside India.

**260.** The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and

governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

**261.** (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

*Disputes relating to Waters*

**262.** (1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

*Co-ordination between States*

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

(a) inquiring into and advising upon disputes which may have arisen between States;

Public acts, records and judicial proceedings.

Adjudication of disputes relating to waters of inter-State rivers or river valleys.

Provisions with respect to an Inter-State Council.

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

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

## PART XII

### FINANCE, PROPERTY, CONTRACTS AND SUITS

#### CHAPTER I.—FINANCE

##### *General*

**264.** In this Part, unless the context otherwise requires,— Interpretation.

- (a) “Finance Commission” means a Finance Commission constituted under article 280;
- (b) “State” does not include a State specified in Part C of the First Schedule;
- (c) references to States specified in Part C of the First Schedule shall include references to any territory specified in Part D of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule.

**265.** No tax shall be levied or collected except by authority of law. Taxes not to be imposed save by authority of law.

**266.** (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Consolidated Funds and public accounts of India and of the States.

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.

Contin-  
gency  
Fund.

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

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

*Distribution of Revenues between the Union and the States*

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

- (a) in the case where such duties are leviable within any State specified in Part C of the First Schedule, by the Government of India, and
- (b) in other cases, by the States within which such duties are respectively leviable.

Duties  
levied by  
the Union  
but  
collected  
and  
appropri-  
ated by  
the States.

(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.

**269.** (1) The following duties and taxes shall be levied and collected by the Government of

Taxes  
levied and  
collected  
by the  
Union but  
assigned to  
the States.

India but shall be assigned to the States in the manner provided in clause (2), namely:—

- (a) duties in respect of succession to property other than agricultural land;
- (b) estate duty in respect of property other than agricultural land;
- (c) terminal taxes on goods or passengers carried by railway, sea or air;
- (d) taxes on railway fares and freights;
- (e) taxes other than stamp duties on transactions in stock-exchanges and futures markets;
- (f) taxes on the sale or purchase of newspapers and on advertisements published therein.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States specified in Part C of the First Schedule, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

Taxes levied and collected by the Union and distributed between the Union and the States.

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

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributed to States specified in Part C of the First Schedule or to taxes payable in respect of Union emoluments, 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 such manner and from such time as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to States specified in Part C of the First Schedule.

(4) In this article—

(a) “taxes on income” does not include a corporation tax;

(b) “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;

(c) “Union emoluments” includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income-tax is chargeable.

**271.** Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India. Surcharge on certain duties and taxes for purposes of the Union.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.

Grants in lieu of export duty on jute and jute products.

Prior recommendation of President required to Bills affecting taxation in which States are interested.

**272.** Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but if, Parliament by law so provides there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

**273.** (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution whichever is earlier.

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

**274.** (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for

the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this article, the expression “tax or duty in which States are interested” means—

- (a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or
- (b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

**275.** (1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Grants from the Union to certain States.

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums,

capital and recurring, equivalent to—

- (a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part A 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.

(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.

Taxes on professions, trades, callings and employments.

**276.** (1) Notwithstanding anything in article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(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 two hundred and fifty rupees per annum:

Provided that if in the financial year immediately preceding the commencement of this Constitution there was in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceed two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

**277.** Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the Savings.

same purposes until provision to the contrary is made by Parliament by law.

Agreement with States in Part B of the First Schedule with regard to certain financial matters.

**278.** (1) Notwithstanding anything in this Constitution, the Government of India may, subject to the provisions of clause (2), enter into an agreement with the Government of a State specified in Part B of the First Schedule with respect to—

- (a) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter;
- (b) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to derive from any tax or duty leviable under this Constitution by the Government of India or from any other sources;
- (c) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 291,

and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such

commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

**279.** (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

Calculation  
of "net  
proceeds",  
etc.

(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.

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

Finance  
Commi-  
ssion.

(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;
- (c) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (1) of article 278 or under article 306; and
- (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.

Recommendations of the Finance Commission.

**281.** The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

*Miscellaneous Financial Provisions*

**282.** The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Expenditure defrayable by the Union or a State out of its revenues.

**283.** (1) The custody of the Consolidated Fund of India and the Contingency Fund of India, the payment of moneys into such Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of India, their payment into the public account of India and the withdrawal of moneys from such account and all other matters connected with or 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.

Custody, etc., of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.

(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 or Rajpramukh of the State.

Custody  
of suitors,  
deposits  
and other  
moneys  
received  
by public  
servants  
and  
courts.

**284.** All moneys received by or deposited with—

- (a) any officer employed in connection with the affairs of the Union or of a State in his capacity as such, other than revenues or public moneys raised or received by the Government of India or the Government of the State, as the case may be, or
- (b) any court within the territory of India to the credit of any cause, matter, account or persons,

shall be paid into the public account of India or the public account of State, as the case may be.

Exemption  
of prop-  
erty of the  
Union  
from State  
taxation.

**285.** (1) The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

Restric-  
tions as to  
imposition  
of tax on  
the sale or  
purchase  
of goods.

**286.** (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

- (a) outside the State; or
- (b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

*Explanation.*—For the purposes of sub-clause (a), a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

(2) Except 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 sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce:

Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March, 1951.

(3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

**287.** Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether

Exemption from taxes on electricity.

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.

Exemption from taxation by States in respect of water or electricity in certain cases.

**288.** (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

*Explanation.*—The expression “law of a State in force” in this clause shall include a law of a

State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1), but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

**289.** (1) The property and income of a State shall be exempt from Union taxation. Exemption of property and income of a State 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.

Adjust-  
ment in  
respect of  
certain  
expenses  
and  
pensions.

**290.** Where under the provisions of this Constitution the expenses of any court or Commission, or the pension payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India or after such commencement in connection with the affairs of the Union or of a State, are charged on the Consolidated Fund of India or the Consolidated Fund of a State, then, if—

- (a) in the case of a charge on the Consolidated Fund of India, the court or Commission serves any of the separate needs of a State, or the person has served wholly or in part in connection with the affairs of a State; or
- (b) in the case of a charge on the Consolidated Fund of a State, the court or Commission serves any of the separate needs of the Union or another State, or the person has served wholly or in part in connection with the affairs of the Union or another State,

there shall be charged on and paid out of the Consolidated Fund of the State or, as the case may be, the Consolidated Fund of India or the Consolidated Fund of the other State, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.

Privy  
purse  
sums of  
Rulers.

**291.** (1) Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of

tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—

- (a) such sums shall be charged on, and paid out of, the Consolidated Fund of India; and
- (b) the sums so paid to any Ruler shall be exempt from all taxes on income.

(2) Where the territories of any such Indian State as aforesaid are comprised within a State specified in Part A or Part B of the First Schedule, there shall be charged on, and paid out of, the Consolidated Fund of that State such contribution, if any, in respect of the payments made by the Government of India under clause (1) and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 278, be determined by order of the President.

## CHAPTER II.—BORROWING

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

Borrowing  
by the  
Govern-  
ment of  
India.

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

Borrowing  
by States.

(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

Succession  
to property,  
assets,  
rights,  
liabilities  
and obliga-  
tions in  
certain  
cases.

**294.** As from the commencement of this Constitution —

(a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and

(b) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

**295.** (1) As from the commencement of this Constitution— Succession to property, assets, rights, liabilities and obligations in other cases.

(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).

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

**296.** Subject as hereinafter provided, any property in the territory of India which, if this Constitution had not come into operation, would have accrued to His Majesty or, as the case may be, to the Ruler of an Indian State by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a State, vest in such State, and shall, in any other case, vest in the Union:

Provided that any property which at the date when it would have so accrued to His Majesty or to the Ruler of an Indian State was in the possession or under the control of the Government of India or the Government of a State shall, according as the purposes for which it was then used or held were purposes of the

Union or of a State, vest in the Union or in that State.

*Explanation.*—In this article, the expressions “Ruler” and “Indian State” have the same meanings as in article 363.

**297.** All lands, minerals and other things of value underlying the ocean within the territorial waters, of India shall vest in the Union and be held for the purposes of the Union.

Things of  
value  
lying  
within  
territorial  
waters to  
vest in the  
Union.

**298.** (1) The executive power of the Union and of each State shall extend, subject to any law made by the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

Power to  
acquire  
property.

(2) All property acquired for the purposes of the Union or of a State shall vest in the Union or in such State, as the case may be.

**299.** (1) All contracts made in the exercise of the executive power of the Union or of a State shall be expressed to be made by the President, or by the Governor or the Rajpramukh 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 or the Rajpramukh by such persons and in such manner as he may direct or authorise.

Contracts.

(2) Neither the President nor the Governor nor the Rajpramukh shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

Suits and proceedings.

**300.** (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or of the Legislature of such State enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the commencement of this Constitution —

- (a) any legal proceedings are pending to which the Dominion of India is a party, the Union of India shall be deemed to be substituted for the Dominion in those proceedings; and
- (b) any legal proceedings are pending to which a Province or an Indian State is a party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

## PART XIII

### TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

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

Freedom of trade, commerce and intercourse.

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

Power of Parliament to impose restrictions on trade, commerce and intercourse.

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

Restrictions on the legislative powers of the Union and of the State with regard to trade and commerce.

(2) Nothing in clause (1) shall prevent Parliament from making any law giving, or authorising the giving of, any preference or making, or authorising the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India.

Restrictions on trade, commerce and intercourse among States.

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

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

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

Effect of articles 301 and 303 on existing laws.

**305.** Nothing in articles 301 and 303 shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.

Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce.

**306.** Notwithstanding anything in the foregoing provisions of this Part or in any other provisions of this Constitution, any State specified in Part B of the First Schedule which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the

terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if, after consideration of the report of the Finance Commission constituted under article 280, he thinks it necessary to do so.

**307.** Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

Appoint-  
ment of  
authority  
for  
carrying  
out the  
purposes  
of articles  
301 to  
304.

# PART XIV

## SERVICES UNDER THE UNION AND THE STATES

### CHAPTER I.—SERVICES

Interpreta-  
tion.

**308.** In this Part, unless the context otherwise requires, the expression “State” means a State specified in Part A or Part B of the First Schedule.

Recruit-  
ment and  
conditions  
of service  
of persons  
serving  
the Union  
or a State.

**309.** Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

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 or Rajpramukh 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.

Tenure of  
office of  
persons  
serving the  
Union or a  
State.

**310.** (1) Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service of the Union or of an all-India service or holds any

post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor or, as the case may be, the Rajpramukh 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 or Rajpramukh 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 or the Rajpramukh, as the case may be, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation, if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

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

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Dismissal,  
removal or  
reduction  
in rank of  
persons  
employed  
in civil  
capacities  
under the  
Union or  
a State.

Provided that this clause shall not apply—

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge;
  - (b) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause; or
  - (c) where the President or Governor or Rajpramukh, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to give to that person such an opportunity.
- (3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

All-India services.

**312.** (1) Notwithstanding anything in 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 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.

**313.** Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an all-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution.

**314.** Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India continues on and after the commencement of this Constitution to serve under the Government of India or of a State shall be entitled to receive from the Government of India and the Government of the State, which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to immediately before such commencement.

## CHAPTER II.—PUBLIC SERVICE COMMISSIONS

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

Transitional provisions.

Provision for protection of existing officers of certain services.

(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 or Rajpramukh of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.

(5) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Union or, as the case may be, the State as respects the particular matter in question.

Appointment and term of office of members.

**316.** (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor or Rajpramukh of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of

their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown in India or under the Government of an Indian State shall be included.

(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 sixty 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 or Rajpramukh 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.

Removal  
and  
suspension  
of a  
member of  
a Public  
Service  
Commi-  
ssn.

**317.** (1) Subject to the provisions of clause (3), the Chairman or any other member of a Public Service Commission shall only be removed from his office by 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 or Rajpramukh, 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.** In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Rajpramukh of the State may by regulations—

- (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:

Power to make regulations as to conditions of service of members and staff of the Commission.

Provided that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.

**319.** On ceasing to hold office—

- (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

Prohibition as to the holding of offices by members of Commission on ceasing to be such members.

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.

Functions  
of Public  
Service  
Commis-  
sions.

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

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

- (3) The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted—
- (a) on all matters relating to methods of recruitment to civil services and for civil posts;
  - (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;
  - (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;
  - (d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown in India or under the Government of an Indian State, in a civil capacity, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the 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 or Rajpramukh 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 or Rajpramukh, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.

(5) All regulations made under the proviso to clause (3) by the President or the Governor or Rajpramukh 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.

Power to extend functions of Public Service Commissions.

**321.** An Act made by Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the Union Public Service Commission or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

Expenses of Public Service Commissions.

**322.** The expenses of the Union or a State Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the Consolidated Fund of India or, as the case may be, the Consolidated Fund of the State.

Reports of Public Service Commissions.

**323.** (1) It shall be the duty of the Union Commission to present annually to the President a report as to the work done by the Commission and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of Parliament.

(2) It shall be the duty of a State Commission to present annually to the Governor or Rajpramukh 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 or Rajpramukh 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 or Rajpramukh, as the case may be, 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.

## PART XV

### ELECTIONS

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

Superintendence, direction and control of elections to be vested in an Election Commission.

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

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

(4) Before each general election to the House of the People and to the Legislative Assembly of

each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

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

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

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

(6) The President, or the Governor or Rajpramukh 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.** 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.

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.

**326.** The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than twenty-one years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution 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.

Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

**327.** Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

Power of Parliament to make provision with respect to elections to Legislatures.

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

Bar to interference by courts in electoral matters.

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

**329.** 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 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.

## PART XVI

### SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

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

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

Reserva-  
tion of  
seats for  
Scheduled  
Castes and  
Scheduled  
Tribes in  
the House  
of the  
People.

(2) The number of seats reserved in any State 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 in the House of the People 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.

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

Represen-  
tation of  
the Anglo-  
Indian  
commu-  
nity in the  
House of  
the  
People.

Reserva-  
tion of  
seats for  
Scheduled  
Castes and  
Scheduled  
Tribes in  
the

Legislative  
Assem-  
blies of  
the States.

**332.** (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam, in the Legislative Assembly of every State specified in Part A or Part B of the First Schedule.

(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.

(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 except in the case of the constituency comprising the cantonment and municipality of Shillong.

(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 except from the

constituency comprising the cantonment and municipality of Shillong.

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

Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

**334.** Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

Reservation of seats and special representation to cease after ten years.

- (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,

shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

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

Claims of Scheduled Castes and Scheduled Tribes to services and posts.

Special provision for Anglo-Indian community in certain services.

in connection with the affairs of the Union or of a State.

**336.** (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August, 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent. than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

Special provision with respect to educational grants for the benefit of Anglo-Indian community.

**337.** During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State specified in Part A or Part B of the First Schedule 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.

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

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

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

Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.

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

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 any such State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

Appointment of a Commission to investigate the conditions of backward classes.

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

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the

facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

**341.** (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

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

**342.** (1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State.

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

## PART XVII

### OFFICIAL LANGUAGE

#### CHAPTER I.—LANGUAGE OF THE UNION

Official language of the Union.

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

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

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

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

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

(a) the English language, or

(b) the Devanagari form of numerals,

for such purposes as may be specified in the law.

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

Commission and Committee of Parliament on official language.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

- (a) the progressive use of the Hindi language for the official purposes of the Union;
- (b) restrictions on the use of the English language for all or any of the official purposes of the Union;
- (c) the language to be used for all or any of the purposes mentioned in article 348;
- (d) the form of numerals to be used for any one or more specified purposes of the Union;
- (e) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty

shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

#### CHAPTER II.—REGIONAL LANGUAGES

Official language or languages of a State.

**345.** Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

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

Official language for communication between one State and another or between a State and the Union.

**346.** The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States,

that language may be used for such communication.

**347.** On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

Special provision relating to language spoken by a section of the population of a State.

### CHAPTER III.—LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

**348.** (1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

- (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 or Rajpramukh 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 or Rajpramukh of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor or Rajpramukh 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 or Rajpramukh 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.

Special procedure for enactment of certain laws relating to language.

**349.** During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the

Committee constituted under clause (4) of that article.

#### CHAPTER IV.—SPECIAL DIRECTIVES

**350.** Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

Language to be used in representations for redress of grievances.

**351.** 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.

Directive for development of the Hindi Language.

## PART XVIII

### EMERGENCY PROVISIONS

Proclama-  
tion of  
Emer-  
gency.

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

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

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

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

expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

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

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

(a) notwithstanding anything in this Constitution, the executive power of the

Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;

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

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

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

Duty of the Union to protect States against external aggression and internal disturbance.

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

Provisions in case of failure of constitutional machinery in States.

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

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or Rajpramukh, as the case may be, 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.

(4) 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 (3):

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 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 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.

Exercise  
of legisla-  
tive  
powers  
under  
Proclama-  
tion issued  
under  
article  
356.

**357.** (1) Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent—

(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.

(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, to the extent of the incompetency, cease to have effect on the expiration of a period of one year after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period, unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the appropriate Legislature.

**358.** While a Proclamation of Emergency 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

Suspension of provisions of article 19 during emergencies.

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.

Suspension of the enforcement of the rights conferred by Part III during emergencies.

**359.** (1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III 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.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India.

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

Provisions as to financial emergency.

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

(2) The provisions of clause (2) of article 352 shall apply in relation to a Proclamation issued under this article as they apply in relation to a Proclamation of Emergency issued under article 352.

(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.

## PART XIX

### MISCELLANEOUS

Protection  
of Presi-  
dent and  
Governors  
and  
Rajpra-  
mukhs.

**361.** (1) The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

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 or Rajpramukh 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 or Rajpramukh 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

or Rajpramukh 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 or Rajpramukh of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor or the Rajpramukh, 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.

**362.** In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State.

**363.** (1) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the commencement of this Constitution by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after such commencement, or in any dispute in respect of any right accruing under or

Rights and  
privileges  
of Rulers  
of Indian  
States.

Bar to  
interfe-  
rence by  
courts in  
disputes  
arising out  
of certain  
treaties,  
agree-  
ments, etc.

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.

Special provisions as to major ports and aerodromes.

**364.** (1) Notwithstanding anything in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

- (a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or
- (b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article—

- (a) “major port” means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;
- (b) “aerodrome” means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.

**365.** Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution.

Effect of failure to comply with, or to give effect to, directions given by the Union.

**366.** In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

Definitions.

- (1) “agricultural income” means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;
- (2) “an Anglo-Indian” means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

- (3) “article” means an article of this Constitution;
- (4) “borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;
- (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;

- (8) “debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “debt charges” shall be construed accordingly;
- (9) “estate duty” means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;
- (10) “existing law” means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;
- (11) “Federal Court” means the Federal Court constituted under the Government of India Act, 1935;
- (12) “goods” includes all materials, commodities, and articles;
- (13) “guarantee” includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount;

- (14) "High Court" means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—  
(a) any Court in the territory of India constituted or reconstituted under this Constitution as a High Court, and  
(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;
- (15) "Indian State" means any territory which the Government of the Dominion of India recognised as such a State;
- (16) "Part" means a Part of this Constitution;
- (17) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;
- (18) "Proclamation of Emergency" means a Proclamation issued under clause (1) of article 352;
- (19) "public notification" means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;
- (20) "railway" does not include—  
(a) a tramway wholly within a municipal area, or

(b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

(21) "Rajpramukh" means—

(a) in relation to the State of Hyderabad, the person who for the time being is recognised by the President as the Nizam of Hyderabad;

(b) in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognised by the President as the Maharaja of that State; and

(c) in relation to any other State specified in Part B of the First Schedule, the person who for the time being is recognised by the President as the Rajpramukh of that State,

and includes in relation to any of the said States any person for the time being recognised by the President as competent to exercise the powers of the Rajpramukh in relation to that State;

(22) "Ruler" in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is 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;
- (26) “securities” includes stock;
- (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;
- (30) “Uparajpramukh” in relation to any State specified in Part B of the First Schedule means the person who for the time being is recognised by the President as the Uparajpramukh of that State.

Interpreta-  
tion.

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

(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 specified in Part A or Part B of the First Schedule, shall be construed as including a reference to an Ordinance made by the President or, to an Ordinance made by a Governor or Rajpramukh, 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 declare any State not to be a foreign State for such purposes as may be specified in the order.

## PART XX

### AMENDMENT OF THE CONSTITUTION

Procedure  
for  
amend-  
ment of  
the  
Constitu-  
tion.

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

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

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

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

## PART XXI

### TEMPORARY AND TRANSITIONAL PROVISIONS

**369.** Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

- (a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or *kapas*), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;
- (b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court;

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.

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.

Temporary provisions with respect to the State of Jammu and Kashmir.

**370.** (1) Notwithstanding anything in this Constitution,—

- (a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said State shall be limited to—
  - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
  - (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

*Explanation.*—For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

- (c) the provisions of article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such 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 Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

Temporary provisions with respect to States in Part B of the First Schedule.

Continuance in force of existing laws and their adaptation.

**371.** Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State specified in Part B of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President:

Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.

**372.** (1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of 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 two years from the commencement of this Constitution; or

- (b) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.

*Explanation I.*—The expression “law in force” in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

*Explanation II.*—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution had extra-territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have such extra-territorial effect.

*Explanation III.*—Nothing in this article shall be construed as continuing any temporary law in force beyond the date fixed for its expiration or the date on which it would have expired if this Constitution had not come into force.

*Explanation IV.*—An Ordinance promulgated by the Governor of a Province under section 88 of the Government of India Act, 1935, and in force immediately before the commencement of this Constitution shall, unless withdrawn by the Governor of the corresponding State earlier, cease

to operate at the expiration of six weeks from the first meeting after such commencement of the Legislative Assembly of that State functioning under clause (1) of article 382, and nothing in this article shall be construed as continuing any such Ordinance in force beyond the said period.

Power of President to make order in respect of persons under preventive detention in certain cases.

**373.** Until provision is made by Parliament under clause (7) of article 22, or until the expiration of one year from the commencement of this Constitution, whichever is earlier, the said article shall have effect as if for any reference to Parliament in clauses (4) and (7) thereof there 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.

Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.

**374.** (1) The Judges of the Federal Court holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the Supreme Court and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 125 in respect of the Judges of the Supreme Court.

(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.** 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.

Courts, authorities and officers to continue to function subject to the provisions of the Constitution.

Provisions  
as to  
Judges of  
High  
Courts.

**376.** (1) Notwithstanding anything in clause (2) of article 217, the Judges of a High Court in any Province holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the Judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave of absence and pension as are provided for under article 221 in respect of the Judges of such High Court.

(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.

Provisions  
as to  
Comptro-  
ller and  
Auditor-  
General of  
India.

**377.** The Auditor-General of India holding office immediately before the commencement of this Constitution shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon be entitled to such salaries and to such rights in respect of leave of absence and pension as are provided for under clause (3) of article 148 in respect of the

Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement.

**378.** (1) The members of the Public Service Commission for the Dominion of India holding office immediately before the commencement of this Constitution shall, unless they have elected otherwise, become on such commencement the members of the Public Service Commission for the Union and shall, notwithstanding anything in clauses (1) and (2) of article 316 but subject to the proviso to clause (2) of that article, continue to hold office until the expiration of their term of office as determined under the rules which were applicable immediately before such commencement to such members.

Provisions  
as to  
Public  
Service  
Commi-  
ssions.

(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.

Provisions  
as to  
provisional  
Parliament  
and the  
Speaker  
and  
Deputy  
Speaker  
thereof.

**379.** (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall be the provisional Parliament and shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament.

*Explanation.*—For the purpose of this clause, the Constituent Assembly of the Dominion of India includes—

- (i) the members chosen to represent any State or other territory for which representation is provided under clause (2), and
- (ii) the members chosen to fill casual vacancies in the said Assembly.

(2) The President may by rules provide for—

- (a) the representation in the provisional Parliament functioning under clause (1) of any State or other territory which was not represented in the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution,
- (b) the manner in which the representatives of such States or other territories in the provisional Parliament shall be chosen, and
- (c) the qualifications to be possessed by such representatives.

(3) If a member of the Constituent Assembly of the Dominion of India was, on the sixth day

of October, 1949, or thereafter at any time before the commencement of this Constitution, a member of a House of the Legislature of a Governor's Province or of an Indian State corresponding to any State specified in Part B of the First Schedule or a Minister for any such State, then, as from the commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy.

(4) Notwithstanding that any such vacancy in the Constituent Assembly of the Dominion of India as is mentioned in clause (3) has not occurred under that clause, steps may be taken before the commencement of this Constitution for the filling of such vacancy, but any person chosen before such commencement to fill the vacancy shall not be entitled to take his seat in the said Assembly until after the vacancy has so occurred.

(5) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall on such commencement be the Speaker or, as the case may be, the Deputy Speaker of the provisional Parliament functioning under clause (1).

**380.** (1) Such person as the Constituent Assembly of the Dominion of India shall have elected in that behalf shall be the President of India until a President has been elected in accordance with the provisions contained in

Provision  
as to  
President.

Chapter I of Part V and has entered upon his office.

(2) In the event of the occurrence of any vacancy in the office of the President so elected by the Constituent Assembly of the Dominion of India by reason of his death, resignation, or removal, or otherwise, it shall be filled by a person elected in that behalf by the provisional Parliament functioning under article 379, and until a person is so elected, the Chief Justice of India shall act as President.

Council of  
Ministers  
of the  
President.

**381.** Such persons as the President may appoint in that behalf shall become members of the Council of Ministers of the President under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the President under this Constitution.

Provisions  
as to  
provisional  
Legisla-  
tures for  
States in  
Part A of  
the First  
Schedule.

**382.** (1) Until the House or Houses of the Legislature of each State specified in Part A of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of such State.

(2) Notwithstanding anything in clause (1), where a general election to reconstitute the Legislative Assembly of a Province has been

ordered before the commencement of this Constitution, the election may be completed after such commencement as if this Constitution had not come into operation, and the Assembly so reconstituted shall be deemed to be the Legislative Assembly of that Province for the purposes of that clause.

(3) Any person holding office immediately before the commencement of this Constitution as Speaker or Deputy Speaker of the Legislative Assembly or President or Deputy President of the Legislative Council of a Province shall on such commencement be the Speaker or Deputy Speaker of the Legislative Assembly or the Chairman or Deputy Chairman of the Legislative Council, as the case may be, of the corresponding State specified in Part A of the First Schedule while such Assembly or Council functions under clause (1):

Provided that where a general election has been ordered for the reconstitution of the Legislative Assembly of a Province before the commencement of this Constitution and the first meeting of the Assembly as so reconstituted is held after such commencement, the provisions of this clause shall not apply and the Assembly as reconstituted shall elect two members of the Assembly to be respectively the Speaker and Deputy Speaker thereof.

**383.** Any person holding office as Governor in any Province immediately before the commencement of this Constitution shall on such commencement be the Governor of the corresponding State specified in Part A of the First Schedule until a new Governor has been appointed in accordance with the provisions of Provision as to Governors of Provinces.

Chapter II of Part VI and has entered upon his office.

Council of  
Ministers  
of Gover-  
nors.

**384.** Such persons as the Governor of a State may appoint in that behalf shall become members of the Council of Ministers of the Governor under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the corresponding Province immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the Governor of the State under this Constitution.

Provision  
as to  
provisional  
Legisla-  
tures in  
States in  
Part B of  
the First  
Schedule.

**385.** Until the House or Houses of the Legislature of a State specified in Part B of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body or authority functioning immediately before the commencement of this Constitution as the Legislature of the corresponding Indian State shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House or Houses of the Legislature of the State so specified.

Council of  
Ministers  
for States  
in Part B  
of the  
First  
Schedule.

**386.** Such persons as the Rajpramukh of a State specified in Part B of the First Schedule may appoint in that behalf shall become members of the Council of Ministers of such Rajpramukh under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the corresponding Indian State immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of such Rajpramukh under this Constitution.

**387.** For the purposes of elections held under any of the provisions of this Constitution during a period of three years from the commencement of this Constitution, the population of India or of any part thereof may, notwithstanding anything in this Constitution, be determined in such manner as the President may by order direct, and different provisions may be made for different States and for different purposes by such order.

Special provision as to determination of population for the purposes of certain elections.

**388.** (1) Casual vacancies in the seats of members of the provisional Parliament functioning under clause (1) of article 379, including vacancies referred to in clauses (3) and (4) of that article, shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with, elections to fill such vacancies) shall be regulated—

Provisions as to the filling of casual vacancies in the provisional Parliament and provisional Legislatures of the States.

(a) in accordance with such rules as may be made in that behalf by the President, and

(b) until rules are so made, in accordance with the rules relating to the filling of casual vacancies in the Constituent Assembly of the Dominion of India and matters connected therewith in force at the time of the filling of such vacancies or immediately before the commencement of this Constitution, as the case may be, subject to such exceptions and modifications as may be made therein before such commencement by the

President of that Assembly and thereafter by the President of India:

Provided that where any such seat as is mentioned in this clause was, immediately before it became vacant, held by a person belonging to the Scheduled Castes or to the Muslim or the Sikh community and representing a Province or, as the case may be, a State specified in Part A of the First Schedule, the person to fill such seat shall, unless the President of the Constituent Assembly or the President of India, as the case may be, considers it necessary or expedient to provide otherwise, be of the same community:

Provided further that at an election to fill any such vacancy in the seat of a member representing a Province or a State specified in Part A of the First Schedule, every member of the Legislative Assembly of that Province or of the corresponding State or of that State, as the case may be, shall be entitled to participate and vote.

*Explanation.*—For the purposes of this clause—

- (a) all such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be Scheduled Castes in relation to any Province shall be deemed to be Scheduled Castes in relation to that Province or the corresponding State until a notification has been issued by the President under clause (1) of article 341 specifying the Scheduled Castes in relation to that corresponding State;
- (b) all the Scheduled Castes in any Province or State shall be deemed to be a single community.

(2) Casual vacancies in the seats of members of a House of the Legislature of a State functioning under article 382 or article 385 shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with, elections to fill such vacancies) shall be regulated in accordance with such provisions governing the filling of such vacancies and regulating such matters as were in force immediately before the commencement of this Constitution subject to such exceptions and modifications as the President may by order direct.

**389.** A Bill which immediately before the commencement of this Constitution was pending in the Legislature of the Dominion of India or in the Legislature of any Province or Indian State may, subject to any provision to the contrary which may be included in rules made by Parliament or the Legislature of the corresponding State under this Constitution, be continued in Parliament or the Legislature of the corresponding State, as the case may be, as if the proceedings taken with reference to the Bill in the Legislature of the Dominion of India or in the Legislature of the Province or Indian State had been taken in Parliament or in the Legislature of the corresponding State.

Provision  
as to Bills  
pending in  
the  
Dominion  
Legislature  
and in the  
Legisla-  
tures of  
Provinces  
and Indian  
States.

**390.** The provisions of this Constitution relating to the Consolidated Fund of India or the Consolidated Fund of any State and the appropriation of moneys out of either of such Funds shall not apply in relation to moneys received or raised or expenditure incurred by the Government of India or the Government of any State between the commencement of this Constitution and the thirty-first day of

Moneys  
received  
or raised  
or expen-  
diture  
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between  
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Constitution and the 31st day of March, 1950.

March, 1950, both days inclusive, and any expenditure incurred during that period shall be deemed to be duly authorised if the expenditure was specified in a schedule of authorised expenditure authenticated in accordance with the provisions of the Government of India Act, 1935, by the Governor-General of the Dominion of India or the Governor of the corresponding Province or is authorised by the Rajpramukh of the State in accordance with such rules as were applicable to the authorisation of expenditure from the revenues of the corresponding Indian State immediately before such commencement.

Power of the President to amend the First and Fourth Schedules in certain contingencies.

**391.** (1) If at any time between the passing of this Constitution and its commencement any action is taken under the provisions of the Government of India Act, 1935, which in the opinion of the President requires any amendment in the First Schedule and the Fourth Schedule, the President may, notwithstanding anything in this Constitution, by order, make such amendments in the said Schedules as may be necessary to give effect to the action so taken, and any such order may contain such supplemental, incidental and consequential provisions as the President may deem necessary.

(2) When the First Schedule or the Fourth Schedule is so amended, any reference to that Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

Power of the President to remove difficulties.

**392.** (1) The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period

as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V.

(2) Every order made under clause (1) shall be laid before Parliament.

(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India.

## PART XXII

### SHORT TITLE, COMMENCEMENT AND REPEALS

Short title. **393.** This Constitution may be called the Constitution of India.

Commencement. **394.** This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution.

Repeals. **395.** The Indian Independence Act, 1947, and the Government of India Act, 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.

## **FIRST SCHEDULE**

[Articles 1, 4 and 391]

### **The States and the territories of India**

#### **PART A**

<i>Names of States</i>	<i>Names of corresponding Provinces</i>
1. Assam	Assam
2. Bihar	Bihar
3. Bombay	Bombay
4. Madhya Pradesh	The Central Provinces and Berar
5. Madras	Madras
6. Orissa	Orissa
7. Punjab	East Punjab
8. The United Provinces	The United Provinces
9. West Bengal	West Bengal

#### **TERRITORIES OF STATES**

The territory of the State of Assam shall comprise 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.

The territory of the State of West Bengal shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Province of West Bengal.

The territory of each of the other States in this Part shall comprise the territories which immediately before the commencement of this Constitution were comprised in the corresponding Province and the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed of that Province.

**PART B****NAMES OF STATES**

1. Hyderabad.
2. Jammu and Kashmir.
3. Madhya Bharat.
4. Mysore.
5. Patiala and East Punjab States Union.
6. Rajasthan.
7. Saurashtra.
8. Travancore-Cochin.
9. Vindhya Pradesh.

**TERRITORIES OF STATES**

The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and—

- (a) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding Indian State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and
- (b) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner's Province of Panth Piploda.

**PART C****NAMES OF STATES**

1. Ajmer.
2. Bhopal.
3. Bilaspur.

4. Cooch-Behar.
5. Coorg.
6. Delhi.
7. Himachal Pradesh.
8. Kutch.
9. Manipur.
10. Tripura.

#### TERRITORIES OF STATES

The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioners' Provinces of Ajmer-Merwara, Coorg and Delhi, respectively.

The territory of each of the other States in this Part shall comprise the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before the commencement of this Constitution being administered as if they were a Chief Commissioner's Province of the same name.

#### PART D

The Andaman and Nicobar Islands.

## **SECOND SCHEDULE**

[Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3),  
164(5), 186 and 221]

### **PART A**

#### **PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES SPECIFIED IN PART A OF THE FIRST SCHEDULE**

1. There shall be paid to the President and to the Governors of the States specified in Part A of the First Schedule the following emoluments per mensem, that is to say:—

The President ..	10,000 rupees
The Governor of a State ..	5,500 rupees

2. There shall also be paid to the President and to the Governors of the States so specified such allowances as were payable respectively to the Governor-General of the Dominion of India and to the Governors of the corresponding Provinces immediately before the commencement of this Constitution.

3. The President and the Governors of such 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.

### **PART B**

#### **PROVISIONS AS TO THE MINISTERS FOR THE UNION AND FOR THE STATES IN PART A AND PART B OF THE FIRST SCHEDULE**

5. There shall be paid to the Prime Minister and to each of the other Ministers for the Union such salaries and allowances as were

payable respectively to the Prime Minister and to each of the other Ministers for the Dominion of India immediately before the commencement of this Constitution.

6. There shall be paid to the Ministers for any State specified in Part A or Part B of the First Schedule such salaries and allowances as were payable to such Ministers for the corresponding Province or the corresponding Indian State, as the case may be, immediately before the commencement of this Constitution.

### 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 OF A STATE IN PART A OF THE FIRST SCHEDULE AND THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE LEGISLATIVE COUNCIL OF ANY SUCH 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 of a State specified in Part A of the First Schedule and to the Chairman and the Deputy Chairman of the Legislative Council of such 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.

**PART D****PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE HIGH COURTS IN STATES IN PART A OF THE FIRST SCHEDULE**

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 ..	5,000 rupees
Any other Judge ..	4,000 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 shall be reduced by the amount of that pension.

(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,—

- (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) There shall be paid to the Judges of the High Court of each State specified in Part A of the First Schedule in respect of time spent on actual service, salary at the following rates per mensem, that is to say,—

The Chief Justice ..	4,000 rupees
Any other Judge ..	3,500 rupees

(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.

(3) Every Judge of a High 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.

(4) The rights in respect of leave of absence (including leave allowances) and pension of the Judges of the High Court of any State shall be governed by the provisions which, immediately before the commencement of this Constitution, were applicable to the Judges of the High Court in the corresponding Province.

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.

### **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 and solemnly affirm

allegiance to the Constitution of India as by law established, 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.”

##### **III**

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 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 solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, 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.”

## V

Form of oath of office for a Minister for a State:—

“I, A.B., 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 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 solemnly affirm that I will not directly or 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.”

## VII

Form of oath or affirmation to be made by a member of the Legislature of a State:—

“I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God  
solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established 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  
solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, 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.”

## **FOURTH SCHEDULE**

[Articles 4(1), 80(2) and 391]

### **Allocation of seats in the Council of States**

To each State or group of States specified in the first column of the table of seats appended to this Schedule there shall be allotted the number of seats specified in the second column of the said table opposite to that State or group of States, as the case may be.

#### **TABLE OF SEATS**

#### **THE COUNCIL OF STATES**

#### **Representatives of States specified in Part A of the First Schedule**

States	Total Seats
1. Assam	6
2. Bihar	21
3. Bombay	17
4. Madhya Pradesh	12
5. Madras	27
6. Orissa	9
7. Punjab	8
8. The United Provinces	31
9. West Bengal	14
Total	145

#### **Representatives of States specified in Part B of the First Schedule**

States	Total Seats
1	2
1. Hyderabad	11
2. Jammu and Kashmir	4

1	2
3. Madhya Bharat	6
4. Mysore	6
5. Patiala and East Punjab States Union	3
6. Rajasthan	9
7. Saurashtra	4
8. Travancore-Cochin	6
9. Vindhya Pradesh	4
Total	53

**Representatives of States specified in Part C  
of the First Schedule**

States and Groups of States	Total Seats
1. Ajmer }	1
2. Coorg }	1
3. Bhopal	1
4. Bilaspur	1
5. Himachal Pradesh }	1
6. Cooch-Behar	1
7. Delhi	1
8. Kutch	1
9. Manipur }	1
10. Tripura }	1
Total	7
Total of All Seats	205

## **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” means a State specified in Part A or Part B of the First Schedule but does not include the State of Assam.

**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 or Rajpramukh to the President regarding the administration of Scheduled Areas.**—The Governor or Rajpramukh 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:

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 or Rajpramukh, as the case may be.

(3) The Governor or Rajpramukh 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 or Rajpramukh, as the case may be, 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 or Rajpramukh, as the case may be, 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;

(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 subparagraph (2) of this paragraph, the Governor or Rajpramukh 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 or the Rajpramukh 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 declare to be Scheduled Areas.

(2) The President may at any time by order—

(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;

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

(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;

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.

## **SIXTH SCHEDULE**

[Articles 244(2) and 275(1)]

### **Provisions as to the Administration of Tribal Areas in Assam**

**1. Autonomous districts and autonomous regions.**—(1) Subject to the provisions of this paragraph, the tribal areas in each item of Part A 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 Part A of the said table,
- (b) exclude any area from Part A 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,
- (g) define the boundaries of any autonomous district:

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 subparagraph (1) of paragraph 14 of this Schedule.

**2. Constitution of District Councils and Regional Councils.**—

(1) There shall be a District Council for each autonomous district consisting of not more than twenty-four members, of whom not less than three-fourths shall be elected on the basis of adult suffrage.

(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 such Councils;
- (f) any other matter relating to or connected with elections or nominations to such Councils;

- (g) the procedure and the conduct of business in the District and Regional Councils;
- (h) the appointment of officers and staff of the District and Regional Councils.

(7) The District or the Regional Council may after its first constitution make rules with regard to the matters specified in sub-paragraph (6) of this paragraph and may also make rules 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:

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:

Provided further that the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, of the North Cachar and Mikir Hills shall be the Chairman *ex-officio* of the District Council in respect of the territories included in items 5 and 6 respectively of Part A of the table appended to paragraph 20 of this Schedule and shall have power for a period of six years after the first constitution of the District Council, subject to the control of the Governor, to annul or modify any resolution or decision of the District Council or to issue such instructions to the District Council, as he may consider appropriate, and the District Council shall comply with every such instruction issued.

**3. Powers of the District Councils and Regional Councils to make laws.**—(1) The Regional Council for an autonomous region in 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 by the Government of the Assam 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;
- (i) marriage;
- (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.

(3) All laws made under this paragraph shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.

**4. 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 of Assam 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.

(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.

**5. Conferment of powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898, 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, 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, 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.

**6. Powers of the District Council to establish primary schools, etc.**—The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways in the district and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

**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.

(2) Subject to the approval of the Governor, rules may be made by the District Council and by the Regional Council for the management of the District Fund or, as the case may be, the Regional Fund, and the rules so made may prescribe 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.

**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 by the Government of Assam in assessing lands for the purpose of land revenue in the State of Assam 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;

- (c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and
- (d) taxes for the maintenance of schools, dispensaries or roads.

(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.

**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 the Government of Assam in respect of any area within an autonomous district as may be agreed upon between 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.

**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:

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. Application of Acts of Parliament and of the Legislature of the State to autonomous districts and autonomous regions.—**  
(1) Notwithstanding anything in this Constitution—

(a) no Act of the Legislature of the State 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 prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region 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 Legislature of the State 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, 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.

**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 of Assam 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.

**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.

(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 the Government of Assam.

(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.

**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, 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.

**16. Dissolution of a District or a Regional Council.**—(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.

**17. Exclusion of areas from autonomous districts in forming constituencies in such districts.**—For the purposes of elections to the Legislative Assembly of Assam, the Governor may by order declare that any area within an autonomous district 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.

**18. Application of the provisions of this Schedule to areas specified in Part B of the table appended to paragraph 20.—**  
(1) The Governor may—

(a) subject to the previous approval of the President, by public notification, apply all or any of the foregoing provisions of this Schedule to any tribal area specified in Part B of the table appended to paragraph 20 of this Schedule or any part of such area and thereupon such area or part shall be administered in accordance with such provisions, and

(b) with like approval, by public notification, exclude from the said table any tribal area specified in Part B of that table or any part of such area.

(2) Until a notification is issued under sub-paragraph (1) of this paragraph in respect of any tribal area specified in Part B of the said table or any part of such area, the administration of such area or part thereof, as the case may be, shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part IX shall apply thereto as if such area or part thereof were a territory specified in Part D of the First Schedule.

(3) In the discharge of his functions under sub-paragraph (2) of this paragraph as the agent of the President the Governor shall act in his discretion.

**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.

(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.

**20. Tribal areas.**—(1) The areas specified in Parts A and B of the table below shall be the tribal areas within the State of Assam.

(2) The United Khasi-Jaintia Hills District shall comprise the territories which before the commencement of this Constitution were known as the Khasi States and the Khasi and Jaintia Hills District, excluding any areas for the time being comprised within the cantonment and municipality of Shillong, but including so much of the area comprised within the municipality of Shillong as formed part of the Khasi State of Mylliem:

Provided that for the purposes of clauses (e) and (f) of subparagraph (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 District.

(3) Any reference in the table below to any District (other than the United Khasi-Jaintia Hills District) or administrative area shall be construed as a reference to that district or area at the commencement of this Constitution:

Provided that the tribal areas specified in Part B of the table below shall not include any such areas in the plains as may, with the previous approval of the President, be notified by the Governor of Assam in that behalf.

TABLE

PART A

1. The United Khasi-Jaintia Hills District.
2. The Garo Hills District.
3. The Lushai Hills District.
4. The Naga Hills District.
5. The North Cachar Hills.
6. The Mikir Hills.

**PART B**

1. North East Frontier Tract including Balipara Frontier Tract, Tirap Frontier Tract, Abor Hills District and Misimi Hills District.
2. The Naga Tribal Area.

**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.

## **SEVENTH SCHEDULE**

[Article 246]

### **List I—Union List**

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

15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.
31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.
32. Property of the Union and the revenue therefrom, but as regards property situated in a State specified in Part A or Part B of the First Schedule subject to legislation by the State, save in so far as Parliament by law otherwise provides.
33. Acquisition or requisitioning of property for the purposes of the Union.
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.
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 Delhi University, and any other institution declared by Parliament by law to be an institution of national importance.

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, declared by Parliament by law to be of national importance.

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

69. Census.

70. Union Public Services; All India Services; Union Public Service Commission.

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

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

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

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

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

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

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

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

79. Extension of the jurisdiction of a High Court having its principal seat in any State to, and exclusion of the jurisdiction of any such High Court from, any area outside that State.

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.

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

(a) alcoholic liquors for human consumption.

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

85. Corporation tax.

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

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

94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

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

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

**List II—State List**

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

of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

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

16. Pounds and the prevention of cattle trespass.

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

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

19. Forests.

20. Protection of wild animals and birds.

21. Fisheries.

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

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

24. Industries subject to the provisions of entry 52 of List I.

25. Gas and gas-works.

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

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

28. Markets and fairs.

29. Weights and measures except establishment of standards.
30. Money-lending and money-lenders; relief of agricultural indebtedness.
31. Inns and inn-keepers.
32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.
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.
36. Acquisition or requisitioning of property, except for the purposes of the Union, subject to the provisions of entry 42 of List III.
37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.
38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.
39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.
40. Salaries and allowances of Ministers for the State.
41. State public services; State Public Service Commission.
42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.
44. Treasure trove.
45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.
46. Taxes on agricultural income.
47. Duties in respect of succession to agricultural land.
48. Estate duty in respect of agricultural land.
49. Taxes on lands and buildings.
50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.
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.
52. Taxes on the entry of goods into a local area for consumption, use or sale therein.
53. Taxes on the consumption or sale of electricity.
54. Taxes on the sale or purchase of goods other than newspapers.
55. Taxes on advertisements other than advertisements published in the newspapers.
56. Taxes on goods and passengers carried by road or on inland waterways.
57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.

58. Taxes on animals and boats.
59. Tolls.
60. Taxes on professions, trades, callings and employments.
61. Capitation taxes.
62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
64. Offences against laws with respect to any of the matters in this List.
65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.
66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

### **List III—Concurrent List**

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.
2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.
3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.
4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.
5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect

of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

6. Transfer of property other than agricultural land; registration of deeds and documents.
7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.
8. Actionable wrongs.
9. Bankruptcy and insolvency.
10. Trust and Trustees.
11. Administrators—general and official trustees.
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.
18. Adulteration of foodstuffs and other goods.
19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.
20. Economic and social planning.
21. Commercial and industrial monopolies, combines and trusts.
22. Trade unions; industrial and labour disputes.

23. Social security and social insurance; employment and unemployment.
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.
25. 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.
33. Trade and commerce in, and the production, supply and distribution of, the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest.
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 declared by Parliament by law to be of national importance.
41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.
42. Principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be determined, and the form and the manner in which such compensation is to be given.
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.

## **EIGHTH SCHEDULE**

[Articles 344(1) and 351]

### **Languages**

1. Assamese.
2. Bengali.
3. Gujarati.
4. Hindi.
5. Kannada.
6. Kashmiri.
7. Malayalam.
8. Marathi.
9. Oriya.
10. Punjabi.
11. Sanskrit.
12. Tamil.
13. Telugu.
14. Urdu.