

IMMEDIATE

145

constituted - Ministry of India
PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA.

UNOFFICIAL NOTE

(Unofficial notes are issued on the understanding that their source will not be referred to in any way in what is published.)

~~FREE WORKS IN NEW CONSTITUTION~~
~~Important Features of the Draft Report~~
RIVER PROJECTS TO BE SPEEDED UP
RECOMMENDATIONS OF CENTRAL BOARD OF IRRIGATION

New Delhi, ~~Feb 24~~, January 22, 1948.

I have not seen the summary —
but if it is possible could we
have it in the form of an
unofficial note (as per specimen above)
with head-lines & other details on
the first sheet?'

S.D.

24.1.48

V.S.

IMPORTANT:

(NOT TO BE PUBLISHED OR BROADCAST BEFORE 6 A.M.
(I.S.T.) ON THURSDAY THE 26TH FEBRUARY, 1948.)

DRAFT CONSTITUTION OF INDIA

SUMMARY

The Draft Constitution of India as settled by the Drafting Committee of the Constituent Assembly which is published today marks an important stage in the progress of the work of the Constituent Assembly in framing the new Constitution for India. The Draft is divided into 18 Parts and consists of 315 articles and 8 Schedules.

Preamble.— The preamble which closely follows the Objectives Resolution of the Constituent Assembly adopted in January last year declares that the aim of the new Constitution is to constitute India into a Sovereign Democratic Republic; 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 all Fraternity assuring the dignity of the individual and the unity of the Nation. In a foot-note to the Draft, the Committee explains that the question of the relationship between this Democratic Republic and the British Commonwealth of Nations remains to be decided subsequently. The reference to "Fraternity" in the preamble is of especial significance at the present moment as the need for fraternal concord and goodwill in India is never greater than now.

Part I deals with the Union and its territory and jurisdiction.

India is described as a Union of States and for the sake of uniformity the Units of the Union have been described as 'States' whether they are known at present as Governors' Provinces or Chief Commissioners' Provinces or Indian States. The States have been divided into three classes:-

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The contents of this report are Not
to be published or broadcast before 6 A.M.
(I.S.T.) on Thursday the 26th February, 19
48.

IMPORTANT

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BEPRE 26, 1948
6 A.M. on Thursday, February

Copies

Draft Constitution of India 148

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- (a) States enumerated in Part I of the First Schedule which correspond to the existing Governors' Provinces;
- (b) States enumerated in Part II of the First Schedule which correspond to the existing Chief Commissioners' Provinces; and
- (c) States enumerated in Part III of the First Schedule which correspond to the Indian States which have acceded to the Dominion.

In addition, the territory of India includes the Andaman and Nicobar Islands,

~~territory~~ ^{enumerated in} Provision has been made for the admission, establishment and formation of new States.

Part II deals with citizenship.

Article 5 of the Draft lays down who shall be a citizen of India at the date of the commencement of the Constitution. Every person who or either of whose parents or any of whose grand-parents was born in the territory of India as defined in ~~this~~ the Constitution and who has not made his permanent abode in any foreign State after the first day of April, 1947; and every 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), or in Burma, Ceylon or Malaya, and who has his domicile in the territory of India as defined in ~~this~~ the Constitution shall be a citizen of India, provided that he has not acquired the citizenship of any foreign State before the date of commencement of ~~this~~ the Constitution. A person shall be deemed to have his domicile in the territory of India if he would have had his domicile in such territory under Part II of the Indian Succession Act, 1925,

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The main principle emphasized in this Article is that in order to be a citizen of the Union at its inception a person must have some kind of territorial connection with the Union, whether by birth or descent or domicile. The Article also keeps in view the requirements of the large number of displaced persons who have had to migrate to India within recent months and provides for them a specially easy mode of acquiring domicile and, thereby, citizenship; ~~for~~ for the insertion of an Explanation to this article.

Under this Explanation a person shall be deemed to have his domicile in the territory of India if he would have had his domicile in such territory under Part II of the Indian Succession Act, 1925, had the provisions of that Part been applicable to him, or if he has, before the date of commencement of this Constitution, deposited in the office of the District Magistrate a declaration in writing that he desires to acquire such domicile and has resided in the territory of India for at least one month before the date of the declaration.

The acquisition of citizenship after the date of commencement of the Constitution has been left to be regulated by law by the Parliament of the Union.

Part III deals with Fundamental Rights.

The Fundamental Rights ~~and~~ are based on the decisions of the Constituent Assembly.

These rights have been grouped ~~under~~ rights of equality, rights relating to religion, cultural and educational rights, right to property and right to constitutional remedies. There is an express prohibition ~~in the Draft~~ of discrimination on grounds of religion, race, caste or sex. All

*under the Explanation
to the article,*

as follows:

citizens are assured of equal opportunity in matters of public employment. 'Untouchability' is abolished and its practice in any form is forbidden. The State is prohibited from conferring any title and no citizen is to accept any title from any foreign State. Certain rights regarding freedom of speech, freedom to assemble peaceably and without arms, to form associations or unions, to move freely throughout the territory or to reside or settle in the territory of India or to acquire, hold and dispose of property or to practise any profession, or to carry on any occupation, trade or business are protected. It is declared that all persons are equally entitled to freedom of conscience and the right to profess, practise and propagate religion. Traffic in human beings and begar and other similar forms of forced labour are prohibited. The cultural and educational interests of minorities are also protected. The right to move the Supreme Court for the enforcement of the Fundamental Rights is guaranteed.

Part IV deals with the Directive Principles of State Policy and contains provisions which though not enforceable by any Court are nevertheless fundamental in the governance of the country and it is specifically provided that it shall be the duty of the State to follow these principles in making laws. The new State is to ~~xxxxxx~~ promote the welfare of the people by ~~securing and protecting~~ a social order in which justice, social, economic and political, shall inform all the institutions of national life. This Part also ~~varies~~ ^{varies} ~~it also~~ contains injunctions of a varied character ~~as respects rights of~~

establishing and
maintaining

regarding the right

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to
of citizens, education, provision and ~~against~~ ^{for} just and humane conditions of work, living wages, ^{to a}
 and so forth.
 for workers, uniform civil code for citizens, etc.

Part V deals with the Union.

*to be exercised by him
on the advice of
responsible Ministers.*

The Union Executive.— The head of the State is to be the President of India. All executive power of the Union ~~is shall~~ ^{is vested} be in the President, He is to be elected by the members of an electoral college consisting of the members of both Houses of Parliament, and the elected members of the Legislatures of the States. He is to hold office for a term of five years and is eligible for re-election once, but only once. The President ~~must~~ ^{be} should be a citizen and ~~must~~ not less than thirty-five years of age and should be qualified for election as a member of the Lower House of ~~the~~ Parliament. The President may be impeached for ~~the~~ violation of the Constitution. The Draft makes provision for a Vice-President also. He is to be the ex officio Chairman of the Council of States and is to be elected by the members of both Houses of Parliament assembled at a joint sitting in accordance with the system of proportional representation by means of the single transferrable vote. He is to hold office for a term of five years. All doubts and disputes arising out of or in connection with the election of a President or Vice-President are to be inquired into and decided by the Supreme Court whose decision is to be final. The Draft also provides for a Council of Ministers with the Prime Minister at the head, to aid and advise the President in the exercise of his functions. The Council is to be collectively responsible to the House of the People. All executive action of the Government of India is to be expressed to be

*Whenever the office of
President becomes vacant
the Vice-President discharges
its duties until another
President is elected.*

taken in the name of the President, and the
~~and the~~ all
President shall exercise his functions on the
advice of his Ministers. Provision has been made
also for the appointment of an Attorney-General for
~~corresponding to~~
~~of India &~~ by the President for the exercise of
functions which are exercisable by the Advocate-
General for India under the existing Constitution.

3 It shall be the duty of the Prime Minister to furnish information to the President relating to the administration of the affairs of the Union and proposals for legislation whenever the President may call for the same.

*To represent literature,
art, science, &c,*

The Union Parliament. - The Union Parliament is to consist of a President and two Houses to be known respectively as the Council of States and the House of the People. The Council of States is to consist of 250 members of whom 15 members are to be nominated by the President and the remainder ^{are} to be the representatives of the States. The House of the People ~~shall~~ consist of not more than 500 representatives of the territories of the States elected on the basis of adult suffrage, and there shall be not less than one representative for every 750,000 of the population and not more than one representative for every 500,000 of the population.

The Council of States ~~shall~~ will not be subject to dissolution, but as nearly as possible one-third of the members ~~shall~~ will retire on the expiration of every second year.

The House of the People ~~shall~~ will continue for a period of five years and the expiration of that period shall operate as its dissolution, ^{operatis} but provision has been made power has been provided for extension of the duration of the House of the People for a ^{any emergency} period not exceeding one year during emergencies.

Provisions for the
conduct of business
therein
The usual provisions for the summoning, prorogation and dissolution of the Houses of the Union Parliament, the conduct of business therein, the disqualifications of members thereof and the legislative procedure of the two Houses

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including ~~the~~ procedure ~~in~~ in financial matters have been provided for generally on the lines of similar provisions contained in the Government of India Act, 1935. It has however been provided, following the practice prevalent in the Parliament of the United Kingdom that at the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the cause of its summons.

A special procedure has been prescribed with regard to Money Bills on the lines of the ~~procedure followed in respect of such Bills~~ in the Parliament of the United Kingdom.

It has been also provided that in the Union Parliament business shall be transacted in Hindi or English but that the Presiding Officer of the House may permit any member, who cannot adequately express himself in either of these languages, to address the House in his mother tongue.

Legislative Powers of the President. - Power has been ~~provided for~~ for the promulgation of Ordinances ~~by the President~~ at any time except when both the Houses of Parliament are in session. The President will promulgate such Ordinances on the advice of his Ministers, and such Ordinances ~~shall expire~~ ^{will cease to operate} at the expiration of six weeks from the re-assembly of the Union Parliament.

Federal Judicature. ~~XXXX~~ There ~~shall~~ be a Supreme Court of India consisting of a Chief Justice of India and not less than seven Judges. Provision has been made for the appointment ~~of~~ by the Chief Justice of India of Judges of High Courts as ad hoc Judges at the sittings

given to the President to promulgate

[Cease to operate]

will

[Following]

as/

the Union and a State
or between two States

of the Court.

of the Supreme Court for specified periods
~~to follow~~ the practice prevalent in the Supreme
 Court of Canada. Provision has ~~been~~ also made
 for the attendance of retired Judges at sittings
 of the Supreme Court ~~following the practice~~
~~prevailing~~ in the United Kingdom and in the
 United States of America. Any person who has
 held office as a Judge of the Supreme Court
 is prohibited from practising in any court
 in India. The Supreme Court ~~shall~~ have
 original, appellate and advisory jurisdiction.
 Its original jurisdiction ~~shall~~ extends to
 disputes between any two or more of the
 following parties, namely, the Union and the
 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. Disputes arising out of certain
 agreements have ~~been~~ however left out of the
 purview of the Supreme Court. The appellate
 jurisdiction ~~will extend~~ to cases involving
 the interpretation of the Constitution and
 to all other cases from which an appeal now
 lies to the Federal Court or to His Majesty-
 in-Council. The minimum pecuniary limit of
 the subject matter of the dispute in the
 case of civil appeals has been fixed at
 Rs. 20,000/- The Supreme Court ~~shall have~~ has
 advisory jurisdiction in respect of questions
 which may be referred to that Court by the
 President for opinion.

Provision has been also made for
 special leave to appeal to the Supreme Court
 from any judgment, decree or final order in
 any cause or matter passed or made by any
 court or tribunal in the territory of India.

In a foot-note the Committee has

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observed that in the Supreme Court of the United States of America all the Judges of the Court are entitled to participate in ^{that} the hearing of every matter, the Court never sits in divisions and that the Judges of that Court attach the greatest importance to this practice. The Committee has expressed the opinion that this practice should be followed in India at least in two classes of cases, namely, those which involve questions of interpretation of the Constitution and those which are referred to the Supreme Court for opinion by the President, and that whether the same practice should not be extended to other classes of cases may be left to be regulated by Parliament by law.

Auditor-General of India.— Provisions similar to those existing in the Government of India Act, 1935, have been made for an Auditor-General of India.

Part VI deals with States which correspond to Governors' Provinces.

The Executive in such States.— There shall be a Governor for each such State and the executive power of the State shall be vested in him.

As to the mode of selection of the Governor, the Draft contains alternative provisions. One alternative,

The other alternative, favoured by

Provision has been made following the decision of the Provincial Constitution Committee which was adopted by the Constituent Assembly, provides that the Governor shall be elected by direct vote of all persons who have the right to vote at a general election for the Legislative Assembly of the State. ~~but~~ some of the members of the Committee feel strongly that the co-existence of a Governor elected by the people and ~~the~~ ^{a chief} Minister responsible

~~that the Governor shall
be appointed by the President
from a panel of four
persons (who need not
be residents of the State
(concerned) elected by the
Legislature of the State.~~

to the Legislature might lead to friction
and consequent weakness in administration,
~~and~~ The Committee has therefore suggested an
alternative mode of appointing Governors.
~~that~~ the Legislature should elect a panel of four
persons (who need not be residents of the
State) and the President of the Union should
appoint one of the four as Governor.

The term of office of the Governors ~~shall~~ ^{is to}
be five years. Provision has been made for
impeachment of a Governor for ~~the~~ ^L violation of
the Constitution.

12. Deputy Governors. The Committee has not
thought it necessary to make any provision for
Deputy Governors, because a Deputy Governor will
have no function to perform so long as the Governor
is there. At the Centre, the position is different,
because the Vice-President is also the ex-officio
Chairman of the Council of States; but in most of
the States there will be no Upper House and it will
not be possible to give the Deputy Governor functions
similar to those of the Vice-President. There
is a provision in the Draft enabling the Legislature
of the State (or the President) to make necessary
arrangements for the discharge of the functions of
the Governor in any unforeseen contingency.

The Committee has not thought it
necessary to make any provision for Deputy
Governors as, unlike the Vice-President
Centre, the Deputy Governor cannot be
ex officio Chairman of the Upper House
in most of the States there will be
Upper House and the result will be that the
Governor will have no definite functions
form so long as the Governor is there.

A provision has been made in the Draft for
enabling the Legislature of the State (or
the President in the case of an ~~unappointed~~ appointed
Governor) to make necessary arrangements for
the discharge of the functions of the
Governor in an unforeseen contingency.

Provision has been also made for a
Council of Ministers with the Chief Minister
at the head to aid and advise the Governor
in the exercise of his functions. The Governor
~~shall~~ ^{will} act on the advice of his Ministers,
except in respect of certain matters, such as,
the summoning and dissolving of the Legislature
the appointment of the Chairman and members
of the State Public Service Commission and
the Auditor-General-in-Chief of the State
and the issue of a proclamation suspending

This last-mentioned power can be exercised only for a period not exceeding two weeks and the Governor is required to report his action to the President.

the constitution in case of grave emergency threatening the peace and tranquillity of the State. All executive actions of the Government of ~~xxxix~~ the State shall be ^{with} expressed to be taken in the name of the Governor. It shall be the duty of the Chief Minister to furnish information to the Governor relating to the administration of the affairs of the State and proposals for legislation whenever the Governor may call for the same.

Advocate General for the State.— There shall be an Advocate-General for ~~the~~ State whose functions shall be similar to those of the Advocate-General of the corresponding Province under the Government of India Act 1935. The Advocate-General shall retire from office upon the resignation of the Chief Minister of the State.

The State Legislature.— The State Legislature shall consist of the Governor and two Houses (Legislative Assembly and Legislative Council) in ~~certain~~ States and one House (Legislative Assembly) in other States. The names of the States which will have two Houses have been left blank to be filled in afterwards.

The Legislative Assembly shall consist of members (being not in any case more than 300 or less than 60) who shall be chosen by direct election on the basis of adult suffrage in territorial constituencies. There shall not be more than one member for every lakh of the population, ^{1 acre}

The total number of members of the Legislative Council of a State having such a

known as the
Except in the case of certain areas
"autonomous districts"
of Assam.

is not¹² -

Council shall not exceed 25 per cent of the total number of members in the Legislative Assembly of the State. and one-half of the members of the Council ~~shall~~ are^a chosen from panels on functional basis and one-third of the members ~~shall~~ be elected by the members of the Legislative Assembly in accordance with the system of proportional representation by means of the single transferable vote and the remainder ~~shall~~ are^b nominated by the Governor.

The Legislative Assembly ~~shall~~ continue for five years and the expiration of that period ~~shall~~ operate^c as its dissolution.

The Legislative Council ~~shall~~ are^d not be subject to dissolution but as nearly as may be one-third of the members ~~shall~~ retire on the expiration of every third year.

The usual provisions for summoning, prorogation and dissolution of the House or Houses of the Legislature of the State, the conduct of business ~~therein~~, the disqualifications of members thereof and the legislative procedure, of the State including the procedure in financial matters, have been provided for generally on the lines similar to those provided for the Union Parliament.

It has been provided that in the Legislature of a State business shall be transacted in the language or languages generally used in that State or in Hindi or English but that the Presiding Officer of the Legislature may permit any member, who cannot adequately express in either of these languages, to address the Legislature in his mother tongue.

Legislative Powers of the Governor.

Power has been provided for the promulgation of Ordinances by the Governor of a State at any time except when the Legislature of the State is in session. The Governor will promulgate such Ordinances on the advice of his Ministers and ~~such Ordinances shall~~ ^{they} expire at the expiration of six weeks from the re-assembly of the Legislature of the State.

Provisions in cases of grave emergencies.

Provision has been made empowering the Governor in cases of grave emergency threatening the peace and tranquility of the State to issue a proclamation suspending certain provisions of the Constitution for a period of two weeks only, and the Governor is required to report the matter to the President. ~~It has been provided that~~ Upon receipt of the report the President may either revoke the proclamation or issue ^a fresh proclamation of his own, the effect of which will be to put the Central Executive in place of the State Executive and the Central Legislature in place of the State Legislature, or, in other words, the State concerned will become a centrally administered area for the duration of the proclamation. This replaces the "section 93 régime" ^{under} ~~in~~ the Act of 1935.

Scheduled and tribal areas. Special provision has been made in the Fifth and Sixth Schedules to the Draft Constitution ^{respecting} for the administration of the Scheduled areas and in the ~~xxxix~~ States other than Assam ^{mostly} tribal areas in Assam, which correspond to the ~~xviii~~ now excluded and partially excluded areas under the Government of India Act, 1935.

The High Courts in States. - The provisions with regard to High Courts in States corresponding to the Governors' Provinces and the Chief Commissioners' Provinces are mostly the same as ~~are~~ in the Government of India Act, 1935. It has however been provided that a Judge of a High Court ~~may~~ ^{not} hold office until he attains the age 60 years or such higher age not exceeding 65 years as may be fixed in this behalf by ~~law~~ of the Legislature of the State. It has also been provided that a person who has held office as a Judge of a High Court shall be prohibited from practising in any court or before any authority within the territory of India ~~and so also the additional Judges and temporary Judges of the Court recruited from the Bar.~~

Provision has ~~been~~ also made for the employment of ~~the~~ retired Judges at sittings of the High Court following the practice prevalent in the United Kingdom and in the United States of America.

It has also been provided that the Union Parliament may by law extend the jurisdiction of a High Court to or exclude the jurisdiction of a High Court from any State other than the ~~Six~~ State in which the Court has its principal seat.

Auditors-in-Chief. - The person performing the functions of an Auditor-General in a State ~~shall~~ ^{not} be designated as Auditor-in-Chief to distinguish him from the Auditor-General of India and provisions similar to those contained in the Government of India Act, 1935, in respect of Auditor-General for the Provinces have been made with respect to

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Auditors-in-Chief for the States.

Part VII deals with States which correspond to the Chief Commissioners' Provinces of Delhi, Ajmer-Merwara, Coorg and Panth Piploda which are at present administered by the Centre.

Provision has been made for the administration of ~~xxxix~~ these States either through a Chief Commissioner or a Lieutenant-Governor, or through the Governor or the Ruler of ~~the~~ neighbouring State. What is to be done in the case of ~~a~~ particular areas is left to the President to prescribe by order. He will of course in this, as in other matters, act on the advice of the responsible Ministers.

It has also been provided that Indian States (such as those of the Orissa group) which have ceded full authority, jurisdiction and power to the Central Government may be administered ~~exclusively~~ as if they were centrally administered areas, i.e., through a Chief Commissioner or ~~the~~ Lieutenant-Governor or through the Governor or the Ruler of a neighbouring State, according to the requirements of each case.

The Committee has expressed the opinion that Delhi being the capital of India cannot be placed under ~~any~~ local administration. In the United States of America, Congress exercises exclusive legislative power in respect of the seat of the Government, so too in Australia.

Part VIII deals with the administration which are of the territories comprised within the territory of India but are not States, e.g., the Andaman and Nicobar Islands. These territories will be administered by the President.

The President has also been empowered to set up local legislatures and Councils of advisers for these areas and to prescribe their Constitution and powers.

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through a Chief Commissioner or any other authority appointed by the President. The President ~~shall~~ have power to make regulations for the peace and good government of these territories.

Part IX deals with the legislative and administrative relations between the Union and the States. ~~The existing scheme as regards the distribution of legislative powers between the Centre and the Units under the Government of India Act, 1935, has been generally maintained. Generally speaking~~ For the most part the Drafting Committee has made no change in the Legislative Lists as recommended by the Union Powers Committee and adopted by the Constituent Assembly.

The Committee has, however, provided that when a subject which is normally in the State List ~~assumes~~ assumes national importance, then the Union Parliament may legislate upon it. To prevent any unwarranted encroachment upon the ~~said~~ powers it has been provided that this can be done only if the Council of States, which may be said to represent the States as ~~Units~~, passes a resolution to that effect by ~~a~~ two-thirds majority.

The Committee has also considered ~~it~~ desirable to put into the Concurrent List the whole subject of "succession" instead of only "succession to property other than agricultural land."

The Committee has also included in the Concurrent List all matters in respect of which parties ~~which~~ are now governed by their personal law, so that it may facilitate the enactment of a uniform law in India in these matters. While putting ~~the~~ land acquisition for the purposes of the ~~Union~~ into the Union List and land

may be facilitated.

acquisition for the purpose of ~~the~~ State in the State List, the Committee has provided that the principles on which compensation for acquisition has to be determined shall in all cases be in the Concurrent List in order that there ~~should~~ ^{may} be some uniformity in this matter.

In addition, in view of the present abnormal circumstances which require ~~essential~~ ^{central} control over essential supplies, it has been provided, ~~following the provisions of~~ ^{on the lines of the} India (Central Government and Legislature) Act, 1946, that, for a term of five years from the commencement of the Constitution, trade and commerce in, and the produce, supply and distribution of, certain essential commodities as ^{Such cotton fabrics,} food-stuffs, and petroleum, ~~etc.~~, as also ^{the} relief and rehabilitation of displaced persons, shall be on the same footing as Concurrent List subjects.

(between the Union
and the States)

regarding inter-State
water-supplies

As regards the administrative relations, provision has been made for enabling ~~Indian~~ State ^a which corresponds to Indian States ^w to enter into agreement with the Union or ~~the~~ ^{with} any State which corresponds to a Governor's ^{former} Province for the undertaking of executive, legislative and judicial powers in the State ^{the latter} by the Union or ~~such other~~ State. Provisions for settlement of the disputes as to interference of water supply ^{on the lines of the existing} provisions in the Government of India Act, 1935, has ~~been~~ ^{been} also included.

has, however, been made

As respects inter-State trade and commerce, all preferences or discrimination to one State over another have been prohibited. ^{Provision} ~~has been made~~ ^{has been made} been however provided to enable any State to impose reasonable restrictions ^{on the freedom} of trade, commerce and intercourse with that State in the public interest. The appointment of an

~~It has been also provided that Parliament shall by law appoint such authority as it considers appropriate for the carrying out of the provisions relating to inter-State trade and commerce.~~

by the President
~~Provision has been also made for the appointment of an Inter-State Council for the settlement of disputes between the States and for the better coordination of policy to be followed by the States with respect to any subject.~~

Part X deals with Finance, Property, Contracts and Suits.

for the present
~~Provisions relating to the distribution of revenues between the Central Government and the States and the grant of maximum financial aid to the States have been retained as in the Government of India Act, 1935. A provision has been included for the appointment of a Finance Commission at the end of five years from the commencement of ~~this~~ the new Constitution to make recommendations as to the distribution of such revenues and other matters between the Union and the States. The Drafting Committee has not incorporated the recommendations of the Expert Finance Committee relating to the distribution of such revenues between the Union and the States as it considers that in view of the unstable conditions which at present prevail, it would be best to retain the status quo in the matter for a period five years at the end of which a Finance Commission may review the situation.~~

*in my opinion
the Drafting Committee,*

The other provisions in this Part are mostly the same as in the Government of India Act, 1935.

Part XI deals with Emergency Powers. The President has been given power to issue a Proclamation of Emergency when a grave emergency

exists whereby the security of India is threatened ~~xxxxxx~~ whether by war or domestic violence. The provisions relating to the Proclamation of Emergency are modeled on the existing provisions relating to such proclamations under the ~~in the~~ Government of India Act, 1935.

Part XII deals with Services. Detailed provisions as to the services have been left to be regulated by Act of the appropriate Legislature.

Provisions for the Union and the State Public Service Commission have been included on the lines of the existing provisions in the Government of India Act, 1935.

Part XIII deals with Elections. Provision has been made for the superintendence, direction and control of all elections to Parliament by an Election Commission to be appointed by the President and of all elections to the Legislatures of States by an Election Commission to be appointed by the Governor of the State. The Committee has not thought it necessary to incorporate in the Constitution electoral details including delimitation of constituencies, and these have been left to be provided by auxiliary legislation.

Part XIV deals with safeguards for minorities. Provision has been made for ~~the~~ reservation of seats for the Muslim community, the Scheduled Castes, the scheduled tribes and the Indian Christians (in Madras and Bombay) in the House of the People and in the Legislative Assemblies of the States for a period of ten years. Special safeguards for the continuance of certain rights in respect of services and educational grants for the Anglo-Indian

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community have been provided for a period of ten years.

Provision has been also included for the appointment of a special officer for minorities both for the Union and for the States and for the appointment of a ~~periodic~~^{perman} Commission to investigate the conditions of backward classes. Provision has also been made for the appointment of a Commission to report on the administration of scheduled areas (which correspond to excluded and partially excluded areas in the present Constitution) and the welfare of scheduled tribes.

Part XV contains miscellaneous provisions.

Protection of the President and Governors.

Provision has been included in this Part for the protection of the President and the Governors from civil and criminal process during the term of their office.

Part XVI contains provisions for the amendment of the Constitution. Ordinarily such amendment will require a two-thirds majority of the members of each House of the Parliament. In the case of ~~an~~^{an} amendment to make any change in the Legislative Lists or the representation of States in Parliament or the powers of the Supreme Court, the amendment ~~will~~^{will} also require ratification by the Legislatures ~~by~~^{of} not less than one-half of the States which correspond to the Governorships and not less than one-third of the States which correspond to the Indian States.

The provision giving limited constituent powers to the State Legislatures in respect of certain definite matters has ~~been~~^{been} also included.

present and voting as well as an absolute majority of the total membership of each House.

It has been provided that all existing laws shall continue in operation subject to such adaptations made by the President by order as may be necessary to bring them into conformity with the provisions of the new Constitution.

Part XVII deals with temporary and transitional provisions. It has also been provided that until the Houses of the Parliament have been duly constituted and summoned to meet for the first session, the Constituent Assembly ^{will} exercise the powers of the Union Parliament and that the Speaker of the Constituent Assembly ^{will} continue to be the Speaker of the Assembly when so functioning as the Union Parliament. It has also been provided that such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf ^{until} ~~shall~~ be the provisional President of India ^{unless} a President has been ~~not~~ elected in accordance with the provisions of the new Constitution.

Two members of the Committee have however expressed the opinion that the President of the Constituent Assembly should become the provisional President of the Union until the ~~maximum~~ President has been elected under the provisions of the new Constitution.

It has also been provided that Ministers for the Dominion immediately before the commencement of ^{the new} ~~this~~ Constitution ^{will} ~~shall~~ after the commencement become Ministers of the provisional President under the new Constitution.

Similar provisions have ~~been~~ also ^{been} made in respect of ^{the Governor,} ~~the State~~ Legislatures and the Speaker and Deputy Speaker of the Legislative Assembly, ^{is} ~~of each State and~~ the President and Deputy President of the Legislative Council ~~of each State~~ and the Ministers of ^{no} ~~each~~ State which corresponds to the Governor's Province.

and Ministers in
the States comprising
the Governor's Province.

It has also been provided that the Judges
of the Federal Court shall, unless they have
elected otherwise, become the Judges of the
Supreme Court, and shall be entitled to such
salaries and allowances as are provided in
the Constitution in respect of the Judges of
the Supreme Court, and that the Judges of the
High Courts, unless they have otherwise elected,
shall become the Judges of the corresponding
States and shall be entitled to such salaries
and allowances as are provided in this new
Constitution in respect of the Judges of such
High Courts.

Provision has ~~not~~ been made for enabling
 the President to remove difficulties by order
 made under this Part; and the President shall
~~make~~ have power to make such orders until the first
 meeting of the Union Parliament after the
 Parliament has been duly constituted under the
 new Constitution.

Part XVIII deals with commencement
 and repeals. The date on which the Constitution
 shall come into operation has been left blank,
 to be filled in afterwards. The Indian Independence
 Act, 1947, and the Government of India Act, 1935,
 and all other enactments amending or supplementing
 the latter Act ~~will~~ cease to have effect on the
 commencement of the ~~new~~ new Constitution.

First Schedule. The First Schedule contains
 four Parts. Part I mentions the States which
 are at present the Governors' Provinces. Part II
 mentions the States which are at present Chief
 Commissioners' Provinces. Part III will contain
 the names of all the States which ~~will~~ have acceded
 to the Dominion of India immediately before
 the commencement of ~~this~~ ^{the new} Constitution. Part IV

mentions the territory of the Andaman and Nicobar Islands.

The Second Schedule
deals with the
Salaries, allowances etc.
to be paid to the
President, ~~the Ministers~~
~~the Governor,~~
~~the Ministers, and~~
~~the judges of the~~
~~Supreme Court &~~
~~the High Courts~~

Second Schedule. In the Second Schedule

it has been provided that the President shall be entitled to a monthly salary of Rs. 5500/-, and the Governor of a State shall be entitled to a monthly salary of Rs. 4500/-. The President and the Governor shall also be entitled to a sumptuary allowance and furnished residence etc. The Ministers for the Union shall be entitled to the same salaries and allowances as were payable to the Ministers for the Dominion immediately before the commencement of ~~this~~ Constitution. The Ministers for the States shall be entitled to the same salaries and allowances as were payable to the Ministers of the corresponding State immediately before the commencement of ~~this~~ Constitution.

It has been provided that the Chief Justice of the Supreme Court shall be entitled a salary of Rs. 5000/- per mensem and all other Judges of the Supreme Court shall be entitled to a salary of Rs. 4500/- per month. The Chief Justices of High Courts shall be entitled to a salary of Rs. 4000/- per month and other Judges of High Courts shall be entitled to a salary of Rs. 3500/- each per month. It has also been provided that the Auditor-General of India shall be entitled to a salary of Rs. 4000/- per month.

The Third Schedule. The Third Schedule contains forms of oaths of office and secrecy to be taken by the Ministers for the Union and the States and of the declarations to be made by the members of the Union Parliament and the Legislatures of the States and the Judges of the Supreme Court and High Courts.

*mark to be put
of Nov 16, 1935*

Fourth Schedule.— This Schedule contains the Instrument of Instructions for the Governors of the States. Provisions have been included in the Instrument of instructions similar to those contained in the existing Instrument of Instructions to the Governors with regard to the selection of Ministers.

*and the Scheduled
tribes*

Fifth and Sixth Schedules. These Schedules contain provisions with respect to the scheduled areas in the States other than Assam and tribal areas in Assam.

~~Provision has been made in the Fifth Schedule for tribes Advisory Council, and Scheduled Areas Advisory Council in certain States to advise the Provincial Governments on matters pertaining to the administration of scheduled areas and the welfare of the scheduled tribes in those States. The scheduled areas which have been specified in the Fifth Schedule correspond to the areas which are at present excluded and partially excluded under the Government of India Act, 1935.~~

~~The Sixth Schedule contains provisions as to the administration of tribal areas in Assam. Special provision for the creation of autonomous districts and autonomous regions and for the setting up of district and regional councils with certain powers of legislation have been provided in this Schedule on the recommendations of the sub-committee, on these subjects.~~

The Seventh Schedule. This Schedule contains the Legislative Lists already referred to.

The Eighth Schedule contains the lists of scheduled tribes in the different States which correspond to Governors' Provinces.