

Draft Constitution of the Republic of India (Socialist Party, 1948).

Remarks

In March 1948, tensions emerged between the Socialist Party of India and the Indian National Congress: the former wanted to nationalise existing industries, the latter was reluctant. While this political conflict was going on, the Constituent Assembly was neck-deep in framing India's Constitution – a Draft Constitution was prepared. The Socialist Party argued that this Draft Constitution 'fell short of economic and equalitarian ideas' that were integral to the freedom movement. It also accused the Congress of acting in the interests of the capitalist class.

The Socialist Party then prepared its own draft - Draft Constitution of the Indian Republic in 1948. In the foreword, Jayprakash Narayan argued that the deliberations in the Assembly had 'failed to enthuse the country' and the Assembly's Draft Constitution was conservative and did not reflect the revolutionary mood of the country.

The Socialist Draft was around 56 pages long organised around 27 chapters. The document reads like a typical legal/constitutional document and to a large extent, looks similar to the Constituent Assembly's Draft Constitution. Under the 'Fundamental Rights' chapter, there was an 'Economic Rights' section that provided for private property and private enterprise subject to 'general interest of the republic and its toiling masses'.

The document had a section 'Directive Principles of State of Policy' similar to the one in the Assembly's Draft Constitution of the but unlike the Assembly's Draft, the Socialist Draft made it clear that it wanted to establish a socialist order.

The Socialist Draft was not able to substantively influence the deliberations of the Constituent Assembly – this evident during discussions around the Directive Principles chapter of the Assembly’s Draft Constitution where B.R. Ambedkar, chairman of the Assembly's Drafting Committee, made it clear that the Directive Principles were not meant to create a socialistic economy. Niraja Jayal in *Citizenship and its Discontents* identifies the Socialist Draft as one of the ‘alternative constitutional imaginings’ expressed by individuals and political groups before and during the formal constitution-making process.

Preamble,

We, the people of India, having solemnly resolved to form a Sovereign Democratic Republic and to establish Democratic Socialist Order, wherein social justice will prevail and all citizens will lead comfortable, free and cultured life, and enjoy equality of status and opportunity and liberty of thought, expression, faith and worship, do hereby, through our chosen representatives assembled in the Constituent Assembly, adopt, enact, and give to ourselves this Constitution.

Chapter I

THE STATE

1. The state known as India shall be a Sovereign Democratic Federal Republic. The authority emanates from and belongs to the people and shall be exercised by and through different institutions and officials as provided by or under this Constitution.
2. Save as otherwise provided by or under this Constitution the territories included for the time being in Schedule I shall be subject to the jurisdiction of the Republic.
3. New territories, States and Provinces may be incorporated in the Republic by a Federal Law.

4. The territory of the Republic forms a uniform currency, economic and customs zone.

5. Territories, which do not form part of the Republic, may by treaty agreement be included within its currency, economic and customs zone or its administrative jurisdiction.

6. The Federal Legislature may by an Act, with the consent of the Legislature of the Province or Provinces concerned and the Legislature or any other duly constituted authority of the Federated State affected thereby,

(a) create a new Administrative or Federating Unit;

(b) increase the area of any Unit;

(c) diminish the area of any Unit;

(d) alter the boundaries of any Unit ;

(e) create a Sub-Federation or Union for specific purposes;

(f) attach a Unit or Sub-Unit to another Unit or Sub-Unit for specific purposes;

(g) amalgamate a number of small Units or Sub-Units into an administrative zone or district, and may with the like consent make such incidental consequential provisions as it may deem necessary or proper.

7. Governor's Provinces, Sub-Federations, and such Federated States as do not form part of any Sub-Federation shall constitute the Federating Units of the Republic and will hereafter be mentioned in this Constitution as Units.

The Federating Units of the Sub-Federation will be recognised and mentioned in this Constitution as Sub-Units.

8. The Sub-Federations and Federated States as do not form part of any Sub-Federation shall be on par with the Governor's Provinces in all constitutional matters except to the extent otherwise provided in this Constitution.

9. Notwithstanding anything in the Constitution such States as are too small to constitute separate administrative authority shall have, until they are amalgamated singly or jointly with an adjoining province, district or Federated State or welded together to form a Federating Unit of a Sub-Federation, such administrative system as may be approved by the President of the Federation in consultation with the duly constituted authorities of the State concerned.

10. Territories which do not form part of any Federating Unit of the Republic shall form Administrative Units to be directly administered by the Federal Authority. With respect to these Administrative Units, the Federal Authorities shall exercise all powers of Government in the manner laid down in this Constitution and prescribed by the Federal Laws.

Chapter II

CITIZENSHIP

11. The Republic shall have a single uniform citizenship with common and equal rights, privileges and responsibilities.

12. At the date of the commencement of the Constitution:

(A) Every person domiciled in the territories subject to the jurisdiction of the Republic

(a) who has been ordinarily resident in those territories for not less than five years immediately preceding that date; or

(b) who, or whose parents, or either of whose parents, was or were born in India; shall be a citizen of the Republic, unless he

(i) is a citizen of another state; or

(ii) has migrated to a territory outside the jurisdiction of the Republic.

(B) Every person

(a) who is excluded from citizenship under sub-section A (i) , or A

(ii) ; or

(b) who, or whose parents, or either of whose parents, was or were born in the Peninsula of India, and who was domiciled in a territory outside the jurisdiction of the Republic but migrated to a territory within the jurisdiction of the Republic for permanent residence before the commencement of the Constitution shall acquire the citizenship of the Republic, provided that he, or in case he is a minor his guardian on his behalf, intimates to the Federal Government, in the manner prescribed by law, that he wishes to be a citizen of the Republic and to reside permanently in a territory within the jurisdiction of the Republic.

(C) Every person who or whose ancestors was or were born in India and who is domiciled outside the Peninsula of India and has not acquired the citizenship of another state shall be a citizen of the Republic.

13. Subject to a Federal Law, which may be passed to avoid double citizenship, every person born, after the commencement of this Constitution,

(a) of parents, at least one of whom was at the time of that person's birth a citizen of the Republic; or

(b) in the territories of the Republic or onboard a ship of the Republic, unless that person is a child of an alien who because of diplomatic immunity or otherwise was not subject to the jurisdiction of the Republic at the time of that person's birth shall be a citizen of the Republic.

14. Citizenship may also be acquired in accordance with a law of naturalisation which may be passed for the purpose by the Federal Legislature.

15. Citizenship acquired by or under this Constitution may be lost on such conditions as may be determined by a Federal Law. Such

conditions shall not discriminate against a citizen on ground of his religion or community.

16. Allegiance to the Republic shall be the supreme duty of a citizen. 17. Every citizen shall obey the law, serve the interest of national unity, defend the country and carry the national burden in proportion to his means according to the provisions of law.

Any advocacy of communal, racial, or national exclusiveness, or hatred, or contempt shall be an offence.

Chapter III

JUSTICIABLE FUNDAMENTAL RIGHTS GENERAL

18. All citizens are equal before the law and enjoy equal rights regardless of nationality, race, community, creed, or sex.

19. There shall be no discrimination against a citizen on any ground of religion, race, caste or sex in regard to

(a) access to trading establishments, including public restaurants, hotels and places of public entertainments;

(b) the use of wells, tanks, roads and places of public resorts maintained wholly or partly out of public funds or dedicated to the use of the general public;

(c) possession of property, exercising or carrying on any occupation, trade, business or profession within the Republic;

provided that nothing in this clause shall prevent the state from making any special provision for women and children.

20. (a) There shall be equality of opportunity for all citizens in matters of employment under the state.

(b) No citizen shall on grounds only of religion, race or caste, sex, descent, place of birth or any of them, be ineligible for any office under the state.

(c) Nothing in this clause shall affect the operation of a law which prescribes that the incumbent of an office to manage, administer or superintend the affairs of a religious or denominational

institution or a member of the governing body thereof shall be a member of that particular religion or denomination.

21. "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.

22. (a) Privileges or discriminations based on birth, caste, or property are abolished and shall not be recognised by any public authority.

(b) No titles shall be conferred by the Republic except what may be necessary to designate an office or profession or to indicate academic distinctions or attainments.

(c) No citizen of the Republic shall accept any title from any foreign state.

23. Notwithstanding anything contained in the foregoing sections, special facilities may be provided for aboriginal tribes and other backward communities for their economic and cultural advancement and with regard to their share in public services.

RIGHTS OF FREEDOM

24. (a) All citizens of the Republic shall enjoy freedom of movement throughout the whole of the Republic. Every citizen shall have the right to sojourn and settle in any place he pleases. Restrictions may, however, be imposed by or under a Federal Law for the protection of aboriginal tribes and backward classes and the preservation of public safety and peace.

(b) Every citizen shall have in every Unit of the Republic equal civil rights and duties with the citizens of that Unit.

25. The citizens are guaranteed, consistent with other provisions of the Constitution and public order and morality,

- (a) freedom of speech and expression;
- (b) freedom of the press ;
- (c) freedom to assemble peacefully without arms;
- (d) freedom to form associations and unions;
- (e) secrecy of postal, telegraphic and telephonic communications.

26. No person shall be deprived of his life or liberty, nor shall his dwellings be entered, save with due process of law.

27. Traffic in human beings and forced labour in any form, including begar and involuntary service, except as a punishment of crime whereof the party shall have been duly convicted, are hereby prohibited and any contravention of this prohibition shall be an offence, provided that the state may impose, in accordance with law, compulsory service for public purposes without any distinction on grounds of race, religion, caste, or class.

RIGHTS REGARDING AUTONOMY

28. The state is secular and all religious confessions are equal before the law.

29. The enjoyment of civil and political rights, as well as eligibility for public offices, shall be independent of religious belief. No citizen shall be deprived of his public right by the change of his religion.

30. Subject to public order, morality or health, and to other provisions of this Chapter, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Explanation :

(1.) The wearing and carrying of Kirpans shall be deemed to be included in the profession of the Sikh religion.

(2.) Nothing in this article shall affect the operation of any existing law or preclude the state from making any law

(a) regulating any economic, financial, political or other secular activities that may be associated with religious practice ;

(b) for the purpose of social welfare and reform and for throwing Hindu religious institutions of public character to any class or section of Hindus.

31. Every religious denomination or section thereof shall have the right

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

(b) to own, acquire and maintain property, moveable and immoveable, in accordance with law; and

(c) to establish and maintain institutions for religious and charitable purposes.

The state shall, however, have power to enact laws in regard to charitable endowments and to supervise and control their administration in accordance with law.

32. No person may be compelled to pay taxes the proceeds of which are specifically appropriated to further or maintain any particular religion or denomination.

33. No citizen may be compelled to be present at any religious act or ceremony or take part in religious exercise, or to use any form of religious oath, or to disclose his religious conviction unless his rights and duties are dependent thereon. Nor shall any religious instruction be imparted in state educational institution.

34. The use of religious institutions for political purposes and the existence of political organisation on religious basis is forbidden.

CULTURAL AND EDUCATIONAL RIGHTS

35. In all educational and cultural institutions efforts shall be made to develop moral integrity, civic sentiments and sense of public responsibility.

36. (i) Minorities In every Unit shall be protected in respect of their language, script and culture, and no laws or regulations shall be enacted that may operate oppressively in this respect.

(ii) No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the state.

37. (i) Linguistic minorities shall have the right to establish, manage and control educational institutions and cultural associations for the promotion of the study and knowledge of their language and literature, as well as for imparting general education to their children at primary and pre-primary stages through the medium of their own languages.

(ii) In districts and towns in which a linguistic minority forms a considerable proportion of the population the state shall establish primary educational institutions for imparting general education to the children of the linguistic minority concerned through their language.

(iii) At the secondary stage students belonging to linguistic minorities shall be afforded facilities for learning their language and literature as a secondary subject.

(iv) Facilities may be provided to the children of linguistic minorities, if the authorities of the Unit concerned or of the Federation may deem proper, for acquiring general or professional education at the secondary stage through the medium of their own language.

(v) Provisions shall, however, be made for teaching the official language of the province as a compulsory secondary subject to all

such students belonging to linguistic minorities as are being educated at primary and secondary stages through the medium of their own language.

38. (i) The state shall not, while providing state aid to schools, discriminate against schools under the management of minorities.

(ii) In state-aided schools religious instruction and attendance in religious worship shall not be compulsorily imposed on students, and persons of all denominations and communities shall be admitted.

39. Private schools organised as a substitute for public schools shall be subject to state regulations, supervision and control and shall have to satisfy educational and academic standards and follow general curricula prescribed by the state.

40. Denominational and communal educational institutions are forbidden except for the purposes of the study of religion and oriental learning.

41. The state shall endeavour to encourage educational movement amongst workers and provide special facilities to the workers' organisations for the establishment of workers' educational institutions.

ECONOMIC RIGHTS

42. (a) The property of the entire people is the mainstay of the state in the development of the national economy.

(b) The administration and disposal of the property of the entire people are determined by law.

(c) Private property and private enterprises are guaranteed to the extent they are consistent with the general interests of the Republic and its toiling masses.

(d) Private property and economic enterprises as well as their inheritance may be taxed, regulated, limited, acquired and requisitioned, expropriated or socialised but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.

(e) Expropriation over against the Federated States, Provinces, Sub-Federations, municipalities and associations serving the public welfare may take place only upon the payment of compensation.

43. All the intermediaries between the state and the tillers of the soil are abolished. Cultivators shall receive such title to the land as may be determined by the Legislature of the Unit concerned, which may also determine the compensation, if any, which should be paid to the landlords and other intermediaries.

44. (a) To ensure protection against economic exploitation and the development of organisational initiative amongst them, peasants and workers are guaranteed the right to unite into public organisations, trade unions, Kisan sabhas, co-operative societies as well as social, cultural and technical associations.

(b) The state shall encourage them in their organisational activities.

(c) All agreements between employers and employees which attempt to limit this freedom or seek to hinder its exercise shall be illegal.

45. (a) Private enterprisers shall have freedom of negotiation and organisation in business affairs subject to such regulations as the Legislature may deem necessary in social interests.

(b) Private monopolies such as trusts, cartels, syndicates and the like are forbidden.

46. (a) Citizens engaged in intellectual pursuits are assured freedom in their organisational and intellectual activities.

(b) The state shall endeavour to assist science and arts with a view to developing the people's culture and prosperity.

(c) Proprietary rights in works of authorship and inventions shall be recognised and protected by law. The right may, however, be limited and regulated by law, whenever and to the extent the Legislature may deem fit, with a view to protecting social interests and promoting people's culture and prosperity.

47. No child below the age of 14 years shall be engaged to work in any factory, mine or any other hazardous employment. Nor shall women be employed at night, in mines or in industries detrimental to health.

MISCELLANEOUS:

48. (i) No person shall be convicted of the crime 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 at the time of the commission of the offence; nor be tried except by a competent court and in accordance with the prescribed law.

(ii) No person shall be punished for the same offence more than once, nor be compelled in any criminal case to be a witness against himself.

(iii) No person, if within the reach of the state authorities, may be tried without being given a lawful hearing and duly invited to defend himself.

(iv) No citizen shall be deprived by any Statute or order of access to the court for the purpose of demanding reparation of injury or damages.

49. Every citizen has the right directly or without anyone's approval to bring complaint to the law court against official persons and the Governmental or self-governing bodies for illegal acts which they may commit against him in their official capacity. Special provisions may be prescribed by law for Heads of Governments, Ministers, Judges and soldiers under colours.

50. The establishment of the extraordinary tribunals shall not be permitted save only such Military Tribunals as may be authorised by law for dealing with military offences against military law.

The jurisdiction of Military Tribunals shall not be extended to, or exercised over, the civil population save in time of war or armed rebellion, and for acts committed in times of war or armed rebellion, and in accordance with regulations to be prescribed by law. Such jurisdiction shall not be exercised in any area in which all ordinary law courts are open or capable of being held, and no person shall be removed from one area to another for the purpose of creating such jurisdiction.

51. A member of the armed forces of India not on active service shall not be tried by any Court-Martial or other Military Tribunal for an offence cognisable by ordinary law courts unless such offence shall have been brought expressly within the jurisdiction of Courts-Martial or other Military Tribunals by any code of Federal Law for the enforcement of military discipline.

52. The Federal Legislature may by law determine to what extent any right guaranteed in this Chapter shall in their application to the members of the armed forces charged with the maintenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and maintenance of discipline among them.

53. (a) The right to move the Supreme Court and other law courts by appropriate proceedings for the enforcement of the rights provided in this Chapter of the Constitution is guaranteed.

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

(c) The rights guaranteed by this clause shall not be suspended except as otherwise provided by this Constitution.

54 The Federal Legislature shall, as soon as may be after the commencement of this Constitution, make laws to give effect to those provisions of this Chapter which require some legislation and to prescribe punishment for those acts which are declared to be offence in this Chapter and are not already punishable.

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

(b) The state shall not make any law which takes away or abridges the rights conferred by this Chapter and any law made in contravention of this clause shall, to the extent of the contravention, be void:

Provided that nothing in this clause shall prevent the state from making any law for the removal of any inequality, disparity, disadvantage or discrimination arising out of an existing law.

(c) In this clause, the expression "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof.

Chapter IV

DIRECTIVE PRINCIPLES OF THE STATE POLICY

56. The state shall endeavour to promote the welfare, prosperity and progress of the people by establishing and maintaining democratic socialist order wherein social justice will prevail and all will lead decent, free and cultured life. For the aforesaid objective the state, in particular, shall direct its policy towards securing:

- (i) the economic development of the country in accordance with a general economic plan, relying on the state and co-operative sector while achieving a general control over the private economic sector;
- (ii) The transfer to public ownership important means of communication and credit and exchange, mineral resources and the resources of natural power and such other large scale economic enterprises as are matured for socialisation;
- (iii) the municipalisation of public utilities;
- (iv) the encouragement of the organisation of agriculture and small scale industries on co-operative basis;
- (v) the organisation of the facilities of cheap credit on co-operative basis;
- (vi) the control of private enterprises and of the free operation of competition with a view to securing to the people maximum satisfaction of the needs along with decent service conditions to workers and preventing the waste and misuse of material resources as well as the concentration of their ownership and control in a few individuals;
- (vii) the abolition of unemployment and the provision of adequate means of livelihood to all the citizens;
- (viii) the protection of the strength and health of the workers against exploitation' and of their childhood and youth against moral and material abandonment;

(ix) the provision for just and humane conditions of work, maternity relief and old age sickness, disablement and other undeserved want ;

(x) the improvement of public health and standard of living of its people;

(xi) the promotion of cultural and economic advancement of the people through universal free and compulsory primary education for all children up to the age of 14 and free vocational and technical training for industrial workers in factories and farms.

These directive principles of the state policy shall form the basis for the direction and the limit of legislation and administration of the Federation and the Units.

57. Statutory Planning Commissions and Economic Councils shall be established by the Legislatures of the Federation and Units.

The Economic Councils shall be so organised on functional basis as to provide representation to experts and all important groups of economic importance and shall be authorised to divide themselves into sections and work section-wise, as well as to hold general sessions.

The Economic Councils shall have the power to advise the Governments and Legislatures on socio-economic and socio-political matters and may investigate, examine, and plan legislative measures and administrative schemes on socio-economic and socio-political matters for the consideration, of the Legislature and the Government.

All legislative measures on socio-economic and socio-political matters, which are introduced into the Legislature by the Government or any member, shall be referred to the Economic Council for its consideration and report which shall be duly taken into consideration by the Legislature along with the measures concerned.

58. It shall be a primary duty of the state to promote self-government in industry and encourage workers' creative and constructive participation in the management and development of industries.

For these purposes, the state shall, in particular, provide for the establishment of workers' councils composed of delegates of workers of all types engaged in the undertaking concerned with powers to co-operate with the management in

(a) the improvement of the collective working and living conditions of the personnel as well as the regulations which govern them ;

(b) the organisation, administration and general running of the undertaking;

(c) the organisation and supervision of welfare activities for the benefit of workers in undertakings concerned.

59. The Federation shall endeavour to promote the political unity of India through peaceful, democratic and diplomatic processes.

60. The Federation, in co-operation with other states, shall endeavour to promote international peace, security and progress and for the purpose shall in particular work for

(a) the prescription of open, just and honourable relations among nations;

(b) the development of international law on democratic lines and the firm establishment of its understandings as the actual rule of conduct amongst Governments;

(c) the peaceful settlement of international disputes and democratic organisation of peace;

(d) the promotion of political and economic emancipation and cultural advancement of the oppressed and backward peoples ;

- (e) the international regulation of the legal status of workers with a view to ensuring a universal minimum of social rights to the entire working class of the world;
- (f) the promotion of social, cultural and economic progress of humanity through constructive co-operation amongst the nations of the world.

Chapter V

INTERNATIONAL RELATIONS

61. At the commencement of this Constitution, India's membership of the British Commonwealth shall terminate.

62. The President of the Federation shall represent the Republic in international relations. In the name of the Republic, he will make alliances and other treaties with foreign powers. He will accredit and receive diplomatic representatives. He will be guided in his activities in foreign matters by the advice of the Foreign Minister and the Federal Council of Ministers.

63. Declaration of war and conclusion of peace shall be made by Federal Law.

64. Alliances and treaties with foreign states which relate to subjects of legislation shall require the consent of the Federal Legislature.

65. (i) The Units shall be obliged to take whatever measures are necessary within their autonomous sphere of action for the execution of treaties; if a Unit does not comply with this obligation in due time, the Federation shall be vested with the powers to take such measures, and especially to enact necessary laws.

(ii) Likewise, the Federation, when carrying out treaties with foreign states, shall have the right of supervision even in regard to such matters as come within the autonomous sphere of action of the Units. In this case the Federation shall have the same rights even against the Units as in matters of indirect Federal Administration.

66. It shall be the duty of the Federation to protect its citizens against foreign countries.

67. The Federal Authorities may afford asylum to foreign citizens for their struggle for national liberation or for defending the interest of the working people.

68. No person holding any office of profit or trust under the state shall, without the consent of the Federal Government, accept any presents, emoluments, offices or title of any kind from any foreign state,

69. The Federal Government may by an agreement with any Indian State, not specified for the time being in the First Schedule, undertake any executive, legislative or judicial functions vested in that state; but every such agreement shall be subject to, and governed by, Law relating to the exercise for foreign jurisdiction for the time being in force.

Explanation-In this clause, the expression "Indian State" means any territory, not being part of the territory of India, which the President recognised as being such a State.

Chapter VI

DISTRIBUTION OF FUNCTIONS

70. The Federation shall have power of exclusive legislation with respect to subjects enumerated in the "Federal List" in Schedule II.

71. The Federation and the Units shall have concurrent powers of legislation with respect to subjects enumerated in the "Concurrent List" in Schedule II.

72. The Units shall have exclusive power of legislation in respect to subjects so enumerated in "Units List" in Schedule II.

73. The Federation and the Units shall have powers of concurrent legislation over residuary functions.

74. The Federation shall have full executive authority overall functions and subjects which are placed under its exclusive legislative jurisdiction.

75. The Units shall have full executive authority over all subjects and functions which are not placed under the exclusive jurisdiction of the Federation, provided that the Federation shall have power

(a) to place any residuary subject under its executive authority, and

(b) to determine fundamental administrative principles with respect to subjects over which the Federation has power of concurrent legislation.

76. The Federated States and other Sub-Units which form part of a Sub-Federation shall have police powers, shall be responsible for the maintenance of law and order and shall have full legislative, executive and financial jurisdiction over subjects placed by this constitution under the exclusive legislative jurisdiction of the Units, except the Public Service Commission, the Audit Department, and the High Court, provided that by an agreement amongst Sub-Units, endorsed by a Federal Law, some other subjects placed under the exclusive charge of the Units under this

Constitution may be assigned to the exclusive or concurrent jurisdiction of the Sub-Federation.

77. (a) The Sub-Federation shall be in charge of the Public Service Commission, the Audit Department and the High Court and matters placed under its jurisdiction by agreement, and along with the Federation, but to the exclusion of the Units, shall have powers of concurrent legislation over all subjects placed by this Constitution under the concurrent legislative jurisdiction of the Federation and the Units, provided that Sub-Units shall also have power of concurrent legislation over residuary subjects.

(b) The Executive Authority over the subjects of concurrent jurisdiction shall be shared by the Sub-Federation and Sub-Units as may be determined by an agreement amongst them endorsed by a Federal Law.

78. (a) With respect to the Federated States attached to a Provincial Unit, the powers of the Provincial Units shall be such as may be determined by an agreement amongst them endorsed by a Federal Law.

(b) The people of the Federated State attached to a Provincial Unit shall have the right to send its representatives to the Provincial Legislature concerned in proportion to its population. Such representatives shall be entitled to take part in the deliberations of the Provincial Legislature in respect to such matters as are assigned to the Provincial Unit by the Federated State.

79. Within the sphere of concurrent legislation the Units or Sub-Federations shall have the power of legislation, as long as and in so far as the Federation does not make use of its power of legislation.

Chapter VII

RELATION BETWEEN THE FEDERATION AND UNITS

80. When a valid law or order of a Unit or Sub-Federation is inconsistent with a valid law or order of the Federation, the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid.

81. In case of doubt as to the incompatibility or validity of a law or order, the competent authority of the Federation, the Unit or the Sub-Unit may request a decision from the Supreme Court of India in accordance with the more specific requirements of a Federal Law.

82. (a) All disputes between the Federation, the Units and Sub-Units shall be settled peacefully without resort to violence.

(b) If and in so far as a dispute between the Federation, Units and Sub-Units involves any question (whether of law or fact) on which the existence or extent of a legal right depends, it shall be referred to and decided by the Supreme Court of India in its original jurisdiction.

(c) Disputes of non-justiciable character between the Federation, Units or Sub-Units shall be settled by a Board, composed of the Chief Justice of India, the President of the Indian Public Service Commission and the Auditor-General of India and two other experts co-opted by them.

83. Full faith and credit shall be given, throughout the Republic, to the laws, the public acts and records and the judicial proceedings of various Units and Sub-Units and orders of one of them shall be enforced by the other. The manner in which and the conditions under which such acts, records and proceedings shall be proved and the effect thereof determined shall be as provided by a Federal Law.

84. A person charged in a Unit or Sub-Unit with a crime, who shall fly from justice and be found in another Unit or Sub-Unit

shall on demand of the Executive Authority of the Unit or Sub-Unit from which he fled, be delivered up to be removed to the Unit or Sub-Unit having jurisdiction of the crime.

85. Every Unit and Sub-Unit shall make provision for the enforcement of the orders of the Federation as well as for the detention in its prison of persons accused or convicted of offences against the laws of the Federation, and for the punishment of persons convicted of such offence.

86. The Executive Authority of every Unit and Sub-Unit shall be so exercised as to secure respect for the laws of the Federal Legislature which apply in that Unit or Sub-Unit and not to impede or prejudice the exercise of the Executive Authority of the Federation.

87. The Executive Authority of the Federation may give directions to the Governments of the Units and the Sub-Units as to the manner in which latter's executive power and authority should be exercised in relation to any matter which affects the administration of a federal subject.

88. (a) The Federal Legislature in legislating for an exclusively federal subject may devolve upon the Government of a Unit or a Sub-Unit or upon any officer of that Government the exercise on behalf of the Federal Government of any function in relation to that subject.

(b) The Executive Authority of the Government of a Federated State shall continue to be exercisable in that State with respect to federal subjects unless otherwise provided by the appropriate Federal Authority.

(c) The appropriate Federal Authority shall have power to satisfy himself, by inspection or otherwise, that the exclusively federal subjects are properly administered by the Government of the unit,

Sub-Unit or State and to issue necessary directions to secure proper administration.

89. The Federation may if it deems it necessary to acquire any land situated in any Unit or a Sub-Unit for any purpose connected with a matter with respect to which the Federal Legislature has power to make laws, require the Unit or the Sub-Unit to acquire the land on behalf, and at the expense, of the Federation or, if the land belongs to the Unit or the Sub-Unit, to transfer it to the Federation on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India.

90. Where powers and duties have been conferred or imposed upon a Unit or Sub-Unit or officers or authorities thereof within the sphere of exclusive jurisdiction of the Federation, these shall be paid by the Federation to the Unit or Sub-Unit 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 Unit or Sub-Unit in connection with the exercise of those powers and duties.

91. The Units, whether Provinces or Federated States, shall have no power to enter into separate alliances and treaties of political character amongst themselves, provided that with the consent of the Federal Legislature

(a) a number of Federated States may combine together to form a Sub-Federation in accordance with the provisions of this Constitution;

(b) a Federated State may attach itself with a Province for certain specified purposes in accordance with the provisions of this Constitution.

(c) a Federated State may hand over to the jurisdiction of Federal or provincial authorities functions vested in the State.

92. (a) The Federal Government or the Provincial Government may by an agreement with a federated State and with the consent of the Federal Legislature undertake any executive, legislative or judicial functions vested in that State.

(b) In case of such an agreement the jurisdiction of the authorities of the Federation or the Provinces, as the case may be, shall extend to any matter specified in that behalf in such an agreement.

93. (a) The Units may form the legislative and administrative conventions amongst themselves, such conventions shall be communicated to the Executive Authority of the Federation, which shall have the power to prevent their execution if they contain anything contrary to the laws of the Federation or to the rights and interests of other Provinces and Federated States.

(b) Such conventions may be adhered to by other Provinces, Sub-Federations and Federated States.

94. (a) No preference shall be given by any regulation of commerce or revenue by a Unit or Sub-Unit to one Unit or Sub-Unit or part thereof over another.

(a) Nor shall the Federation or Sub-Federation, by any law of trade or commerce, give preference to one Unit, Sub-Unit or any part thereof over another Unit, Sub-Unit or part thereof.

95. Subject to regulation by the law of the Federation, trade, commerce and intercourse among the Units and Sub-Units and between the citizens shall be free;

Provided that in case of disparity in taxation a Unit or Sub-Unit will be free to impose on goods imported from other Units and Sub-Units such taxes as might result in imposing on them the same burden of taxation as is imposed on the goods produced in the Unit or Sub-Unit concerned.

96. A Unit or Sub-Unit shall not, without the consent of the Federal Legislature, impose any tax on the property of the Federation used for administrative purposes, nor shall the Federation impose any tax on the property of the Unit used for administrative purposes.

97. (a) Both the Federation and the Units shall have the power to tax public servants of the Units and the Federation respectively as citizens through general laws of taxation.

(b) Any discrimination by one organisation (the Federation, Unit or Sub-Unit) against the salary of a public servant of another organisation shall be void.

98. The Federal Legislature, with the consent of the two-thirds of its members present and voting, may grant financial assistance to a Unit or Units in general as a block grant or on such terms and conditions as the Federal Legislature thinks fit.

99. (a) The Federal Government may, subject to such conditions, if any, as it may think fit to impose, make loans to Units or Sub-Units, or give guarantees for loans raised by any such Unit or Sub-Unit, and any sum required for the purpose of making such loans shall be charged on the revenues of India.

(b) The Unit or the Sub-Unit may not without the consent of the Federal Government raise any loan if there is still outstanding any part of a loan advanced or guaranteed by the Federal Government under sub-clause (a), or the Unit or Sub-Unit proposes to raise any loan outside the Republic.

(c) A consent under this clause may be granted subject to such conditions if any, as the Federal Government may think fit to impose.

100. The Federal Government, in consultation with the Governments of the Units concerned, may appoint an Inter-State Commission for the purposes of-

- (a) investigating and discussing subjects in which some or all of the Units, or the Federation and one or more of the Units, have a common interest; or
- (b) making recommendations upon any such subject, and, in particular, recommendations for the better co-ordination of the policy and action with respect to that subject.

101. It shall be lawful for two or more Units with the consent of the Federal Authority-

- (a) to set up permanent or ad hoc committees for the purposes of investigating and discussing and making recommendations upon a subject or subjects of common interests;
- (b) to set up joint administration for, or determine common policy and action with respect to, matters of common interest.

102. (a) The Units shall be autonomous in their administration.

(b) The Units shall assist Sub-Units, whenever necessary, in the maintenance of public safety and order.

(c) The Executive Authority of the Federation may help with armed forces the Government of a Unit or Sub-Unit at the request of the Government of the Unit in the restoration of public order.

(d) If public safety and order be seriously disturbed in any part of the Republic and the Government of the Unit concerned fails to restore public order, the President of the Federation may take necessary measures to restore public safety and order if necessary with the armed forces. Under such circumstances, all authorities of the Unit concerned shall assist and obey the instructions of the Executive Authority of the Federation and its duly authorised agents.

(e) If public safety and order be seriously disturbed the Executive Authority of the Federation may also suspend the provision of the

Constitution concerning freedom of speech, association and assembly and inviolability of person, home and correspondence in the manner and to the extent determined by the Federal Law and enforce such of the provisions as are determined by the Federal Law for such occasions.

(f) The Executive Authority must immediately communicate to the Federal Legislature all measures taken under this clause of the Constitution.

(g) The Executive Authority of the Federation shall not lend its support to the Rulers of the Federated States for the purpose of suppressing the freedom movement of the people of States.

103. (a) The Federal Government shall be responsible for the protection of every Unit against external invasion and violence.

(b) It shall be the duty of the Governments of Units and Sub-Units to assist the Federal Government in the mobilisation of manpower and resources of the country for the purposes of defence and to maintain communications needed for the purposes of defence.

(c) Whenever a grave emergency exists, whereby the security of India is threatened by war, the Federal Legislature shall have the power to make laws for the Unit so affected or a part thereof even with respect to matters assigned to the exclusive charge of the Unit.

Under such circumstances, it shall be the duty of all authorities and officials of Units and Sub-Units concerned to co-operate with and obey instructions of, the Federal Authority, issued for the purposes of the defence of the Republic or a part thereof.

The President of the Federation may also take over the charge of the administration of such parts of the Units or Sub-Units as are required for the purposes of the defence of the Republic.

Chapter VIII

THE LEGISLATIVE AUTHORITY GENERAL

104. The Federation as well as Units and Sub-Units including the Federated States shall have a democratic constitution.

105. All legislative powers assigned by or under this Constitution to the Federation, Units, or Sub-Units shall be vested in the Legislatures of the Federation, Units, or Sub-Units respectively.

106. All Legislatures shall be uni-cameral and be elected on the basis of adult, equal, direct and secret suffrage.

107. (a) Every citizen who is not less than twenty-one years of age has been a resident in the constituency for at least six months and is not otherwise disqualified under this Constitution shall be entitled to be registered as a voter at elections of Legislatures.

(b) On the 1st January 1955 franchise shall be extended to citizens who are not less than eighteen years of age and are not otherwise disqualified under this Constitution.

108. A person shall be disqualified for being a voter

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

(b) if he is serving a sentence of transportation or of imprisonment for a criminal offence involving moral turpitude;

(c) if he has been convicted of an offence or found to have been guilty, of corrupt or illegal practice, relating to elections of a Legislature within five years of the election concerned.

109. Every qualified voter who is more than twenty-five years of age before the first of January of the year of the election shall be eligible for election provided that he does not suffer from any disqualification specified in the Constitution.

110. (1) A voter shall be disqualified from being elected or from being a Member of the legislature

- (a) if he holds any office of profit under any Government in India, other than an office declared by the Constitution or law not to disqualify its holder;
 - (b) if he is an undischarged insolvent;
 - (c) if he has committed any offence or resorted to all illegal or corrupt practice with respect to elections within eight years of the election concerned;
 - (d) if he is convicted of treason to the state.
 - (e) if he is under an acknowledgement of allegiance or adherence to a foreign power or is a citizen or a subject of a foreign power.
- (2) A person holding the office of a Minister or a Parliamentary Secretary responsible to a Legislature shall not be disqualified under this Clause from being elected to any Legislature, provided that a Minister or a Parliamentary Secretary can be a Member of that Legislature alone to which he is responsible.

111. A citizen who is registered as a voter in the electoral roll of a constituency in a Unit shall be entitled to be a candidate for the membership of the Legislature of the Federation and the Unit from any constituency of the Unit concerned.

112. The Legislatures shall have power to frame Electoral Laws which may determine all such matters with regard to elections as are not determined by the Constitution.

113. (a) The Federal Legislature shall consist of not more than five hundred members.

(b) The Legislatures of the Units shall consist of not less than fifty and not more than three hundred Members.

(c) The Legislatures of the Sub-Units shall consist of not less than thirty and not more than one hundred Members.

(b) The number of Members shall be fixed from time to time by Electoral Laws which shall be passed for the purpose by various Legislatures with respect to their elections.

(e) The Electoral Laws shall also provide for the delimitation of territorial constituencies and for the purpose Units, Sub-Units and Centrally Administered Areas may be divided and grouped. The ratio of population per each member shall, so far as practicable, be the same throughout India in case of the Federal Legislature and throughout a Unit or a Sub-Unit in case of the Legislature of the Unit or the Sub-Unit concerned.

114. The superintendence, direction and control of elections to the Legislatures held under this Constitution including the appointment of Election Tribunals for decision of doubts and disputes arising out of, or in connection with, such elections shall be vested in a Commission, which shall be appointed by the President of the Federation in case of the elections of the Federal Legislature, and the Heads of the Units in case of the elections of the Legislatures of the Units and Sub-Units.

115. The Legislatures will be elected for a term of four years under the system of cumulative votes in multi-member constituencies and unless sooner dissolved shall continue for four years from the date appointed for its first meeting and shall automatically be dissolved after the expiration of the said period.

116. The Legislatures may, before the expiration of its terms, decree its own dissolution. It may also be dissolved by the Head of the Government (the President of the Federation in case of the Federal Legislature, the Governor of a Province in case of a Provincial Legislature, the Ruler of the State in case of a State Legislature, *Rajpramukh* in case of the Legislature of a Sub-Federation and Administrator in case of the Legislature of a Sub-Unit) on the advice of the Council of Ministers, supported by a requisition signed by at least one-third of the Members of the Legislature concerned.

117. (a) A new election must be held not later than the sixtieth day after the expiration of the term, or the dissolution, of the Legislature.

118. The Legislature shall assemble for its first meeting not later than the thirtieth day after the election.

119. No person shall at the same time be a Member of more than one Legislature.

120. A Member of the Legislature can resign his membership at any time.

121. At their first sitting, Members of the Legislature shall take the prescribed oath. Refusal to take this oath or the making of any reservation thereto shall disqualify a person from membership of the Legislature.

POWERS OF THE LEGISLATURE

122. Each Legislature shall have the power of legislation within the limits prescribed by the Constitution. It shall also have authority to sanction the budget of revenues and expenditure and control public finances; to enquire into administration and discuss matters of public importance; as well as to adopt proclamations and resolutions and determine principles according to which state affairs shall be administered. It may censure the Government or one of its incumbents for maladministration and impeach before the Supreme Court of India by a two-thirds majority of votes cast the President of the Federation or the Head of the Unit or Sub-Unit concerned for acts of treason, breach of the Constitution, bribery or other high crimes or misdemeanours.

123. Members of the Legislature shall not address to public authorities requests in the personal interest of individuals.

PRIVILEGES AND IMMUNITIES OF MEMBERS

124. Subject to the rules and standing orders regulating the procedure of the Legislature concerned, there shall be freedom of speech in the Legislature.

125. A Member of the Legislature shall not be subject to any civil or criminal liability for the exercise of their functions as Members. For the statements made in the Legislature, Members shall be responsible only to the disciplinary rules of the Legislature.

126. Members of the Legislature shall have the right to refuse to give testimony in regard to matters confided to them as members of the Legislature, even after they cease to be Members. In the trial of cases of attempting to corrupt a Member, testimony cannot be refused.

127. (a) No Member of the Legislature may, without the consent of the Legislature of which he is a Member, be subjected to arrest during the session for a penal offence unless he is apprehended in the commission of the act.

(b) Consent of the Legislature is required for every other restriction of personal liberty which obstructs a member in the exercise of his duty during the session.

(c) Every criminal proceeding against a Member of the Legislature and every arrest or other restriction on his personal liberty shall, on demand of the Legislature to which the Member belongs, be deferred for the duration of the Session.

128. Members of the Legislatures shall have a right to remuneration as specified by law.

OFFICERS OF THE LEGISLATURES

129. (d) Each Legislature shall elect from amongst its own members its own Speaker and Deputy Speaker.

(b) They shall be paid such salaries and allowances as may be fixed by the Legislature concerned by law.

130. (a) A Member elected as the Speaker or the Deputy Speaker may at any time resign his office and shall vacate his office in case a vote of no-confidence against him is passed by the Legislature concerned after at least fourteen days notice.

(b) He shall also vacate his office if he ceases to be a Member of the Legislature concerned, provided that in case of the dissolution of the Legislature he shall hold his office until immediately before the first meeting of the Legislature after the dissolution.

131. The Speaker and in his absence the Deputy Speaker shall:

(a) preside over and conduct the deliberations of the Legislature;

(b) exercise powers of administration, discipline and police within the building of the Legislature;

(c) discharge such other duties and exercise such other powers as are assigned to him by or under this Constitution, or the Rules of Procedure of the Legislature concerned.

132. In the absence of both the Speaker and the Deputy Speaker, the powers and duties of the Speaker shall be exercised by such Member of the Legislature and in such manner as are determined by or under the Rules of Procedure.

133. No officer or other Member of the Legislature in whom powers are vested by or under this Constitution for regulating the procedure of the conduct of business, or for maintaining order in the Legislature, shall be subject to the jurisdiction of any courts in respect of the exercise by him of those powers.

GENERAL PROCEDURE

134. (a) The President of the Federation in case of the Federal Legislature and the Head of the Unit or the Sub-Unit concerned in

case of the Legislature of the Unit or the Sub-Unit shall summon the Legislature at least twice in a year, once in January and thereafter in July.

(b) He may summon the Legislature for extraordinary sessions whenever he may deem it necessary. If at least forty per cent of the Members of a Legislature apply to the Prime Minister stating the object for summoning it, the President of the Federation in case of the Federal Legislature and the Head of the Unit or the Sub-Unit in case of the Legislature of the Unit or the Sub-Unit concerned shall summon the Legislature within a fortnight from the date of such application. Should he fail to do so, the Speaker of the Legislature concerned shall summon the Legislature within the following fortnight.

135. The Legislature may be adjourned or prorogued by the Speaker of the Legislature whenever he deems fit.

136. (a) The sittings of the Legislature shall be public.

(b) On-demand of the Presiding Officer or of one-fifth of the Members present the public shall be excluded if the Legislature so resolves by a two-thirds majority of votes cast.

137. True and accurate reports of the proceedings at the public sittings of the Legislatures are privileged matters.

138. The Legislature shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature 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.

139. The quorum shall be ten members or one-sixth of the total number of Members, whichever is greater.

140. If at any time during a meeting of the Legislature there is no quorum, it shall be the duty of the Presiding Officer to adjourn the Legislature or to suspend the meeting until there is a quorum.

141. (a) Save as provided in this Constitution, all questions in the Legislature shall be determined by a majority of votes of the Members present and voting.

(b) The Presiding Officer shall not vote in the first instance but shall have and exercise a casting vote in case of equality of votes.

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

143. The validity of any proceeding in the Legislature shall not be called in question on the ground of any alleged irregularity of procedure.

144. (a) The Head of the Government may address the Legislature and for that purpose require the attendance of Members.

(b) The Head of the Government may send messages to the Legislature with respect to a Bill pending in the Legislature or otherwise, and the Legislature to which any message is so sent shall with all convenient despatch consider any matters required by the message to be taken into consideration.

145. Each Legislature shall determine its own Rules of Procedure, consistent with the Constitution, for conducting its business.

LEGISLATIVE PROCEDURE

146. Bills of legislation shall be introduced by the Ministry or by Members of the Legislature.

147. (1) A Bill making provision-

(a) for imposing, abolishing, remitting, altering or regulating any tax; or

(b) for regulating the borrowing of money, or giving any guarantee by the Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Government; or

(c) for declaring any expenditure to be expenditure charged on the public revenues, or for increasing the amount of any such expenditure

shall be deemed as a money Bill and shall not be introduced or moved except on the recommendation of the Government.

(2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand and payment of fees for licenses or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration, or regulation of tax by any local authority or body for local purposes.

(3) In case of dispute whether a Bill is a Money Bill or not, the decision of the Speaker, or in his absence of the Deputy Speaker, shall be final.

148. All politico-social and politico-economic Bills of fundamental importance shall be referred to the Economic Council concerned for its consideration and report before they are discussed in detail and passed by the Legislature. The Economic Council shall also have the right to initiate drafts of such Bills and refer them to the Legislature through the Ministry. The Economic Council shall report on Bills referred to it within a period of three months.

149. Before a Bill is finally passed by a Legislature it shall be referred to a technical expert who shall have the power to invite the attention of the Legislature to anomalies and technical

difficulties which shall be taken into consideration by the Legislature before the Bill is finally passed.

150. (a) All Bills passed by the Federal Legislature shall be presented to the President of the Federation and those passed by the Legislature of a Unit or a Sub-Unit to the Head of the Unit or the Sub-Unit concerned for his assent. He shall have the right to return it with his comments or recommendations within a month of its presentation. The right can be exercised according to his individual judgment after consultations with the Prime Minister and the Minister concerned.

(b) When a Bill is so returned, the Legislature shall reconsider it accordingly and if the Bill is passed again by the Legislature with or without amendment and presented to the President of the Federation or the Head of the Unit or the Sub-Unit, as the case may be, he shall not withhold his assent thereon.

151. The President of the Federation in case of Federal Bills and the Head of the Unit or the Sub-Unit concerned in case of Bills passed by the Legislature of a Unit or a Sub-Unit shall proclaim laws constitutionally enacted and shall publish them within a month in the official Gazette.

152. All laws, unless otherwise provided, shall be effective on the fourteenth day after the day of publication in the Official Gazette.

153. Except as otherwise provided by law, the Ministry shall have the power to issue such general administrative regulations as are necessary for the execution of laws.

154. A Statutory Committee of 24 persons shall be elected annually on the principle of proportional representation through single transferable vote by every Legislature except that of a Sub-Unit. A member of the Government shall not be a member of the

Standing Committee but shall have power to attend its meetings and take part in its deliberations.

155. The Statutory Committee shall have the power:

(a) to scrutinise and sanction Ordinances framed by the Government under the authority of a law passed by the Legislature;

(b) to consider and pass, on the recommendation of the Government, emergency laws in the form of Ordinances on all matters of the immediate urgency in the intervals between sessions of the Legislature;

(c) to discharge such other functions as may be assigned to it by the Legislature.

156. The Statutory Committee shall be accountable to the Legislature for its activities. Emergency laws shall be laid before the Legislature concerned and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature unless earlier disapproved by the Legislature, or withdrawn by the Government.

157. The Rules of Procedure of the Legislature shall determine the procedure of the Statutory Committee.

FINANCIAL MATTERS

158. The financial management of revenue-producing enterprises of the Government shall be regulated by law.

159. Government taxes and general government income shall be regulated by law.

160. The procurement of funds upon credit as well as the assumption of any liability by the Republic may be undertaken only by the authority of law.

161. Public money shall be disbursed according to the provisions of the Constitution or the grants sanctioned by the Legislature.

162. (1) No demand for a grant shall be made except on the recommendation of the Government.

(2) A Bill which, if enacted and brought into operation, would involve expenditure from the revenue of the Federation, Unit or Sub-Unit shall not be passed by the Legislature unless the consideration of the Bill is recommended by the Government concerned.

163. The President of the Federation and the Heads of the Units and the Sub-Units shall in respect of every financial year cause to be laid before the Legislature a budget of the estimated receipts and expenditure of the Government.

164. The Legislature shall have the power to discuss the budget, to assent, or to refuse to assent, to a demand, or to assent to a demand subject to a reduction of the amount specified therein. The budget must be passed before the beginning of the fiscal year.

165. The grants shall, as a rule, be voted for one year; in special cases, they may be voted for a longer period.

166. So much of the estimates as relates to expenditure declared by or under the Constitution as expenditure charged upon the revenues of the Federation, the Unit or the Sub-Unit shall not be submitted to the vote of the Legislature. But nothing in this Clause shall be construed as preventing the discussion in the Legislature of those estimates.

167. The following expenditure shall be expenditure charged on the revenues of the Federation, the Unit or the Sub-Unit;

(a) Debt charges for which the Federation, the Unit or the Sub-Unit is liable including interest, sinking fund charges and other expenditure relating to the raising of loans and the service and reduction of debt.

(b) Any sum required to satisfy a judgment, decree or award of any court or arbitral tribunal.

(c) The emoluments and allowances of the Heads of the Federation, the Units and the Sub-Units, the Speaker and the Deputy Speaker of the Legislature, and Judges of the Supreme Court and High Courts.

(d) Any other expenditure declared by this Constitution or by the Legislature to be so charged.

168. Within a fiscal year, the Head of the Government may cause to be laid before the Legislature a supplementary demand of expenditure, which shall be considered by the Legislature and may be granted, refused, or assented to, subject to a reduction of the amount specified therein.

169. The annual accounts, examined and approved by the audit, shall along with the audit report, be submitted to, and considered by, the Legislature.

Chapter IX

THE EXECUTIVE AUTHORITY HEADS OF GOVERNMENTS

170. (a) The executive authority of the Federation, Provinces, Sub-Federations and Federated States shall be vested in the President (Rashtrapati) of the Republic, Governors of the Provinces, *Rajpramukhs* of Sub-Federation and Rulers of the States respectively.

(b) The executive authority of a Sub-Unit which is not a Federated State shall be vested in the Administrator of the Sub-Unit.

(c) The President of the Republic will be known as and is referred to in the Constitution as the Head of the Federation or the Republic.

(d) Governors of Provinces, *Rajpramukhs* of Sub-Federations and Rulers of such Federated States as do not form part of any Sub-Federation shall be known and is referred to in this Constitution as Heads of Units.

(e) Administrators of the Sub-Units and Rulers of such Federated States as form part of the Sub-Federation shall be known as and is referred to in this constitution as Heads of the Sub-Units.

(f) All these officers are also referred to in this Constitution as Heads or Constitutional Heads of Government.

171. The President of the Republic shall be elected by means of a single transferable vote by an electoral college composed of the Members of the Federal Legislature and an equal number of persons elected by the Legislatures of the Units on population basis under the system of single transferable vote.

172. The Governor of a Province and a *Rajpramukh* of a Sub-Federation shall be elected by means of a single transferable vote by an electoral college composed of the members of the Legislature of the Unit concerned and representatives of the Province or Sub-Federation concerned on the Federal Legislature.

173. The Administrator of a Sub-Unit shall be elected by means of a single transferable vote by an electoral college composed of the members of the Legislature of the Sub-Unit and representatives of the Sub-Unit concerned on the Legislature of the Sub-Federation.

174. The President, Governors, *Rajpramukhs* and Administrators shall be elected for a term of five years.

175. In case of vacancy by death, or resignation or for any other reason, a new President, Governor, *Rajpramukh* and Administrator, as the case may be, shall be elected within a month for the full term of five years.

176. Every citizen who has completed the age of thirty-five years and is qualified for election as a member of the Legislature shall be entitled to be the President of the Republic, or the Governor of a Province, the *Rajpramukh* of a Sub Federation or the Administrator of a Sub-Unit.

177. The Heads of the Federation, the Units and the Sub-Units shall not at the same time be members of a Legislature and shall not hold any other office or position of emoluments or participate in the governing or controlling bodies of societies and associations which work for profit.

178. (a) In the event of the absence of the President or Governor or *Rajpramukh* or Administrator or of his death, resignation, removal from office, or incapacity or failure to exercise and perform the powers and functions of his office or at any time at which the office of the President, the Governor, the *Rajpramukh* or the Administrator may become vacant, his functions shall be discharged by the Speaker of the Legislature of the Federation or the Unit or the Sub-Unit, as the case may be, pending the resumption of duties or the election of a new President or Governor or *Rajpramukh* or Administrator.

(b) On such occasions and during such periods the Speaker of the Legislature shall not attend sessions of the Legislature and the Deputy Speaker concerned shall discharge the duties of the Speaker of the Legislature.

(c) On such occasions and during such periods the Speaker will have all the powers and immunities of the Head of the Federation or the Unit or the Sub-Unit concerned, as the case may be.

179. The constitutional powers of the Rulers of States are hereditary indirect descendants, natural and legitimate, and the order of succession shall be determined by the customary law of the State concerned; unless a Federal Law passed at the request of two-thirds majority of Members of the Legislature of the State concerned determines otherwise either with respect to succession or continuance of the Monarchy.

180. The Ruler attains majority upon the completion of his twenty-first year.

181. (a) During the Ruler's minority or his physical incapacity to discharge his duties, the heir presumptive to the throne, if he be 21 years of age or more shall be regent of full right. In default, the regent shall be elected by the Legislature of the State, convened within a month by the Ministers.

(b) Unless a Regent is appointed under this Clause, the Speaker of the Legislature of the State concerned shall act as the Regent.

182. No one shall be elected more than twice as the President of the Federation or the Governor of the Province or the *Rajpramukh* of the Sub-Federation or the Administrator of the Sub-Unit.

All doubts and disputes arising out of or in connection with the election of the President of the Federation, the Governor of the Province or the *Rajpramukh* of the Sub-Federation shall be inquired into and decided by the Supreme Court whose decision shall be final.

183. The President of the Federation and Heads of the various Units and Sub-Units shall have an official residence and shall

receive such emoluments and allowances as may be determined by law passed by the Legislatures of the Federation and the Units and Sub-Units concerned respectively.

184. The Heads of the Federation, Units and Sub-Units on assumption of office shall make an affirmation before the Legislature to the effect that they shall abide by the Constitution and laws, shall fulfil their duties conscientiously and impartially and shall advance the people's interests.

POWERS

185. The President of the Republic shall represent the Republic in its relations with other states and as such

- (a) negotiate and ratify international treaties;
- (b) receive and appoint diplomatic representatives;
- (c) declare the existence of a state of war, or declare war with the consent of the Federal Legislature and lay before the Federal Legislature for approval peace treaties which have been concluded. He shall also have the supreme command of the armed forces of the Republic.

186. The Heads of the Federation, Units and Sub-Units shall have the power-

- (a) to grant pardon as well as donations and pensions in special cases on the recommendations of the Government;
- (b) to return with a comment in his individual judgment any law enacted by the Legislature after consultation with his ministers;
- (c) to sign all laws enacted by the Legislatures and all Ordinances passed by the Statutory Committee of 24;
- (d) to summon and dissolve the Legislature;
- (e) to report verbally or in writing to the Legislature on the state of public affairs and to recommend for consideration measures which he deems necessary and useful;

- (f) to appoint and dismiss Cabinet Ministers and other state officials;
- (g) to represent the Government as its Constitutional Head on all ceremonial occasions;
- (h) to demand from the Government or its individual member's reports or information or to call them to conference and hold discussions with them on any matter in their jurisdiction;
- (i) to discharge all such other duties as are entrusted to him by the Constitution or law or devolves on him by virtue of his position as the Constitutional Head of the Government.

187. The Heads of the Federation, Units and Sub-Units shall exercise their functions in accordance with the provisions of the Constitution and laws on the advice of their Ministers unless otherwise specifically authorised by the Constitution. The question whether any and if so what, the advice was tendered by Ministers shall not be inquired into any court.

188. All orders and decrees of the Heads of the Government, including those concerning the armed forces, except those to be issued on the advice of some other authority require for their validity the countersignature of a Minister. Responsibility is accepted by the act of countersignature.

189. The Heads of the Federation, Units and Sub-Units may be prosecuted for high treason and breach of the Constitution but shall not otherwise be answerable at law in the exercise of his functions. The Government shall be responsible for all his official utterances and acts, other than what he is required to do on the advice of some other authority.

190. (1) All governmental and executive powers, in so far as it does not explicitly appertain to the Head of the Federation or the Unit or the Sub-Unit according to the Constitution or the laws

shall be exercised by the Council of Ministers unless assigned to some specific authority.

(2) Nothing in this Clause shall be deemed to-

(a) transfer to the charge of the Council of Ministers directly any functions conferred by any existing law on any authority subordinate to the Council of Ministers.

(b) prevent the Legislature concerned from conferring by law functions on any authority subordinate to the Council of Minister.

THE COUNCIL OF MINISTERS

191. The Prime Minister, and on his recommendation other Ministers, shall be appointed by the Constitutional Head of the Government.

192. No person shall be appointed as a Minister unless he is a citizen of the Indian Republic by birth or naturalisation, is at least 25 years of age and is eligible for being a Member of the Legislature.

193. A Minister who for any period of six consecutive months is not a Member of the Legislature shall cease to be a Minister.

194. In a Federated State, a citizen of Indian Republic may be appointed and continue to function as a Minister, even though he is neither born in the State nor a resident of the State nor a Member of the State Legislature provided that the State Legislature approves such an appointment by a majority of votes cast.

195. The salaries of the Ministers shall be such, as the Legislature concerned may from time to time by a law determine, provided that the salaries shall not vary during his term of office.

196. The Ministers, on the assumption of office, shall take an oath of secrecy and to perform their duties impartially for the public welfare and in accordance with the Constitution and law.

197. The Ministers shall not hold any other office or position of emoluments or participate in the governing or controlling bodies of societies and associations which work for profit.

198. Ministers shall collectively constitute the Government and form a Council of Ministers, which shall be presided over by the Prime Minister.

199. The Council of Ministers shall make rules for the transaction of the business of the Government and for the allocation of the said business.

200. The Council of Ministers may contain one or more Ministers without portfolio.

201. The meetings of the Council of Ministers shall be secret.

202. (a) Ministers who are not members of the Legislature shall have no deliberative vote in the Legislature, but they shall have admission to the Legislature and are entitled to be heard when they are so requested.

(b) The Legislature shall also have the right to demand their presence.

203. (a) The Ministers shall be collectively responsible to the Legislature for the general policy of the Government and individually for affairs under their personal charge.

(b) They shall hold office so long as they command the confidence of the Legislature. Within a month of the formation of a new Council of Ministers, it must seek the confidence of the Legislature.

204. (a) Ministers must resign if and when the Legislature withdraws its confidence by an express resolution.

(b) The Prime Minister may, however, choose to appeal to the electorate and seek their confidence and for the purpose request, the Head of the Federation, the Unit or the Sub-Unit, as the case may be, for the dissolution of the Legislature as provided in the Constitution.

205. When the Prime Minister decides to resign his office, all other Ministers will tender their resignations along with him.

206. (a) The Ministry or an individual Minister will be relieved of office by the Head of the Government in cases prescribed by law or upon their request.

(b) A Minister shall resign if and when required to do so by the Prime Minister.

207. In the event of a resignation of the entire Ministry, the resigning Ministers shall carry on current business until it is taken over by the new Ministers. This rule may also apply to individual Ministers.

208. (a) Parliamentary Secretaries, chosen from amongst Members of the Legislatures, may be assigned to the Ministers to assist them in their departmental and parliamentary duties.

(b) They shall transact such business as may be allocated to them under rules framed for the purpose by the Council of Ministers.

209. (a) The Parliamentary Secretary shall be subordinate to the Minister and shall be bound by his instructions.

(b) The Parliamentary Secretary shall be relieved of his duties and office upon his request or the resignation of the Ministry or on an express resolution of the withdrawal of confidence by the Legislature. He shall resign if and when required to do so by the Prime Minister.

Chapter X

THE JUDICIAL AUTHORITY GENERAL

210. The judicial power shall be exercised and justice administered in accordance with the law in the public law courts duly established under the Constitution or by any other law.

211. (a) The judicial power shall be separated from the administration in all instances.

(b) Judges shall not be required to exercise any executive function or power. They may, however, be entrusted with investigations of quasi-judicial character.

212. (a) Judges shall be independent in the exercise of the functions of the office and shall be bound only by the law.

(b) On the assumption of office Judges shall be required to pledge themselves to abide by the law and administer justice impartially and according to their conscience.

213. Except for Judges of Panchayat Courts, no Judge can be a member of any representative body or a political party or a communal organisation or hold, except in cases foreseen in the law, any other paid engagement.

214. The organisation, jurisdiction and procedure of the law courts shall be prescribed by law in full conformity with the Constitution.

215. (a) The law declared by the Supreme Court of India shall, so far as applicable, be recognised as binding on, and shall be followed by, all Courts.

(b) The law declared by the Privy Council of the British Commonwealth prior to the promulgation of this Constitution shall be binding on and followed by all courts other than the Supreme Court to the extent it is not inconsistent with the law declared by the Supreme Court.

JURISDICTION

216. The Judicial power shall extend to the question of the validity of any law, Regulation, Ordinance, order, or decree.

217. The enforcement of fundamental rights and other provisions of the Constitution shall be the sacred duty of the law courts, especially that of the Supreme Court, and it shall be discharged regardless of all considerations when proceedings are instituted by any interested party.

218. (a) The Supreme Court of India shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Courts of the Provinces, Sub-Federations and the Federated States and any other court exercising Federal Jurisdiction independent of the High Court.

(b) The exceptions and regulations shall not prevent the Supreme Court from hearing appeals

(i) in cases which involve substantial questions of law as to the interpretation of the Constitution or the Federal Law,

(ii) against judgments, decrees, orders and sentences of any Justice or Justices exercising the original jurisdiction of the High Court;

(iii) in any other matter in which at the enactment of the Indian Independence Act of 1947 an appeal lay to the Privy Council.

(c) The decision of the Supreme Court shall be final and conclusive and shall not be capable of being reviewed by any authority-executive, legislative, or judicial.

219. The Supreme Court of India, shall, to the exclusion of any other court, have the original and final jurisdiction in any dispute between the Federation and a Unit or between one Unit and another, 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.

220. The Supreme Court of India shall have the jurisdiction to decide finally upon all matters arising out of international law or treaties including extradition between the Republic and a foreign state. If the Federal Law so prescribes or the President of the Federation so desires, the matter may be taken into cognisance by the Supreme Court in the first instance.

221. (a) If at any time it appears to the President of the Federation that a question of law 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 thereon.

(b) No report shall be made save in accordance with an opinion delivered in open court with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in the Clause shall be deemed to prevent a judge, who does not concur, from delivering a dissenting opinion.

222. The Supreme Court and the High Court shall be courts of records and shall also have all such powers and authority

(including the power to appoint clerks and other ministerial officers and power to make rules and orders for regulating the practice, production of any document, the investigation or punishment of any contempt of court or the enforcement of its decrees), as may be deemed necessary for the administration of justice placed under their jurisdiction.

223. The High Courts of Units shall have such jurisdiction, original and appellate including admiralty jurisdiction in respect of offence committed on the high seas, and all such powers and authority over or in relation to the administration of justice as are or may hereafter be vested in those courts by law.

224. The Supreme Court and High Courts shall have the power to issue directions or orders in the nature of the writ of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them for any purposes including the enforcement of fundamental rights conferred by this Constitution.

225. The Federal Legislature 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.

226. 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 case 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 the Federal Legislature.

227. Subject to the provisions of any law made in this behalf by the Federal Legislature 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 or securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt to itself.

228. If the High court is satisfied that the case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution it may withdraw the case to itself and dispose of the same.

229. Subject to the provisions of law a High Court may direct the transfer of any suit or appeal from any subordinate Court to any other Court of similar or superior jurisdiction or withdraw such suit or appeal from any such Court to itself.

230. (a) Each of the High Courts shall have superintendence over all courts for the time being subject to its appellate jurisdiction. Subject to the provisions of law the High Court may make and issue general rules and prescribe forms for regulating the practice, proceedings and other business of such courts.

(b) Nothing in this clause 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.

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

JUDGES OF SUPREME AND HIGH COURTS

232. The Supreme Court as well as a High Court shall consist of Chief Justice and such other Judges as the President may from time to time deem necessary to appoint, provided that the Judges

so appointed shall at no time exceed in number such maximum as is fixed by the Federal Legislature.

233. (a) The Chief Justice of the Supreme Court shall be appointed by the President of the Federation subject to confirmation by two-thirds majority of the Federal Legislature and the other Judges of the Supreme Court shall be appointed by the President in consultation with its Chief Justice.

(b) The Chief Justice of a High Court shall be appointed by the President on the advice of the Chief Justice of the Supreme Court in consultation with the Head of the Unit.

(c) Other Judges of a High Court shall be appointed by the President on the advice of the Chief Justice of the Supreme Court in consultation with the Head of the Unit and the Chief Justice of the High Court concerned.

234. A person shall not be qualified for appointment as a Judge of the Supreme Court or any High Court unless he possesses a high legal qualification and has either:

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

(b) held for at least seven years a judicial office (in the post of a Judge of a High Court for the appointment of a Judge of the Supreme Court and that of a District or Sessions Judge for the appointment of the Judge of a High Court.)

Explanation : For the purpose of this Clause

(a) in computing the period during which a person has been an advocate of a High Court or the Supreme Court there shall be included any period during which a person held judicial office after he became an advocate.

(b) in computing the period during which a person has held judicial office there shall be included any period during which he has been an advocate of any High Court, the Federal Court or the Supreme Court.

235. Judges and Chief Justices of the Supreme Court and High Courts shall hold office until sixty-five years of age, provided that:

- (a) a Judge may by resignation under his hand addressed to the President of the Federation resign his office;
- (b) a Judge may be removed from his office by the President on the ground of infirmity of mind or body or wilful neglect of duty, or improper exercise of judicial functions or conviction for any infamous offence, if the removal is recommended by the Supreme Court, on reference being made to them by the President.

236. When the office of Chief Justice of India or of a High Court 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.

237. (i) If at any time there may not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice may, after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sitting of the Court as an ad-hoc Judge of a High Court, to be nominated by the Chief Justice of India.

(ii) It shall be the duty of the Judge, who has been so nominated, 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.

238. Notwithstanding anything contained in this Chapter, the Chief Justice of India may at any time, subject to the provisions of this Clause, 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, have all the jurisdiction, powers, privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

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

239. If and when necessary, temporary and Additional Judges may be appointed to High Courts by the President on the advice of the Chief Justice of India in consultation with the Head of the Unit and the Chief Justice of the High Court concerned. Temporary Judges may be appointed from amongst retired Judges of High Courts, if possible. The appointment of additional Judges shall require the confirmation by the two-thirds majority of the Federal Legislature.

240. The Judges of the Supreme Court and of the several High Courts shall be entitled to such salaries and allowances and to such rights in respect of leave and pensions as may be determined by law: Provided that-

(a) the salaries of the Judges of High Courts shall not be less than those of the Ministers of Units concerned and the salaries of the Judges of the Supreme Court shall not be less than those of the Ministers of the Federation;

(b) neither the salary of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

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

HIGH COURTS

242. The Legislature of a Unit may by law constitute a High Court for the Unit or any part thereof or reconstitute in like manner any High Court for that Unit or any part thereof or where there are two High Courts in the Unit amalgamate those Courts.

243. The Federal Legislature may by law, if satisfied that an agreement in that behalf has been made between the Governments of Units concerned, extend the jurisdiction of a High Court in any Province to any area not forming part of that Province or to the whole of any other Province or a Federated State.

(b) In such case the High Court's jurisdiction in relation to any area or areas outside the Province in which it has its principal seat shall be determined by the Legislature that has power to make laws with respect to that area or areas.

244. (a) With the consent of the President of the Federation and agreement among Governments concerned a common High Court with jurisdiction commonly agreed upon amongst Legislatures of Units concerned may be established for a number of Units.

(b) A law for the purpose may be passed by the Federal Legislature, if so requested by the Legislatures of the Units concerned.

245. (a) The administrative expenses of the Supreme Court shall be a charge on the revenues of the Federation, those of High Courts upon the revenues of the Unit concerned.

(b) When a High Court serves a number of Units, its expenses shall be shared by all of them in proportion to be determined by mutual agreement or in default by an arbitrator to be appointed by the Chief Justice of India.

DIRECTLY ADMINISTERED AREAS

246. (a) Such Indian Territories of the Republic as do not form part of the Territories of a Unit, shall be directly administered by the Federal Government through Chief Commissioners.

(b) The Chief Commissioner will be the head of the administration of the territory concerned and will be bound by order and directions, and work under the control and supervision, of the Federal Government.

247. A General Council elected on the basis of the adult franchise shall be established for each such territory by a Federal Law.

248. The General Council shall have power:

(a) to discuss and pass the budget of revenue and expenditure and to examine the audited report of accounts;

(b) to make representations to the Federal Government and tender advice to the Chief Commissioner on all matters concerning the local administration of the territory;

(c) to exercise along with the Federal Legislature the power of concurrent legislation with respect to subjects placed under the exclusive or concurrent jurisdiction of the Units under this Constitution.

249. Bills or Budgets passed by the General Council shall not be operative unless assented to or approved by the President of the Republic. He shall have the power to refer them back to the General Council for its reconsideration, to assent or withhold his assent from a Bill, or to approve the Budget in its entirety or with such modifications as he may deem fit.

250. An Executive Council of four to seven, as determined by a Federal Law, shall be elected by the General Council every year.

251. (a) The administration shall be carried on by the Chief Commissioner in association with the Executive Council in a manner determined by or under a Federal Law.

(b) The Executive Council will transact such other business as is delegated to it by the General Council with the approval of the President of the Republic or assigned to it by a Federal Law or Federal Executive Order.

252. Any Federated State whose Ruler has ceded full and exclusive authority, jurisdiction and powers for and in relations to the governance of the State to the Federal Government shall be administered in all respects as if the State were for the time being Centrally Administered Area, and accordingly all the provisions of this Constitution relating to such an Area shall apply to such State.

Chapter XII

ABORIGINAL TRIBES AND TRIBAL AREAS

253. The Tribal Areas shall politically form part of the Units to which they geographically belong and shall be democratically administered as integral parts of the Indian Republic and the Units concerned.

254. The Tribal Peoples shall enjoy fully all the rights of citizenship of the Indian Republic and shall enjoy equal right of representation on Legislatures of the Federation and Units concerned and equal opportunities of participation in the political life of the country.

255. Special laws shall be passed by the Federal Legislature to restrict and limit immigration to Tribal Areas with a view to protecting Tribal Peoples from the evil consequences of unchecked migration.

256. Special laws shall be passed by the Legislatures of the Units with regard to transfer of land and transaction of business in Tribal Areas with a view to protecting Tribal Peoples from economic exploitation and evil consequences of unequal free competition and contracts.

257. Tribal Areas shall be treated as autonomous territories within Units and shall be granted wide administrative, economic and cultural autonomy to be enjoyed through Autonomous District and Regional Councils.

258. Autonomous District and Regional Councils shall have, besides usual municipal functions, powers of legislation and administration over:

(i) social matters of Tribal Peoples such as marriage and domestic relations, inheritance of property, primary and secondary education, public relief and charities, betting and gambling, intoxicating liquors and drugs, tribal institutions;

(ii) economic matters such as agriculture and settlement of land, preservation and development of forests, fisheries, cottage industries, wholesale or retail business, money lending, production and supply of foodstuffs, poisons and dangerous drugs, irrigation and canals, weights and measures.

259. Autonomous Councils shall recognise and establish people's courts to adjudicate non-cognisable criminal offences and civil suits concerning laws of the tribes and regulations of Autonomous Councils.

260. Tribal Peoples shall be encouraged and preferred in local services.

261. The President of the Federation shall appoint a Tribal Commission which shall consist of

- (a) representatives of Autonomous Regional Councils one for each Council;
- (b) five persons elected by the Federal Legislature;
- (c) a non-official Chairman and a permanent Secretary appointed by the President of the Federation.

The Chairman and the Secretary as well as the members shall be paid such remuneration and allowances as may be determined by Federal Law.

262. (1) The Tribal Commission shall have power to advise the Federal Government with regard to:

- (a) the disbursement of money granted by the Federal Legislature for the advancement of the Tribal Peoples;
- (b) the adaptation of Federal and Provincial Laws for the Tribal Areas with a view to protecting the communal life and economy of the Tribal Peoples.
- (c) such other measures as may be determined for the advancement of the welfare of the Tribal Peoples.

(2) The Tribal Commission may also tender advice to the Governments of Units on any matter intended for the protection of the interests of Tribal Peoples.

(3) The Federal Government, if it so chooses, may also entrust to the Commission the direction, control and supervision of the department and activities organised for the advancement or the welfare of the Tribal Peoples.

263. As soon as may be after the commencement of this Constitution, Tribes Advisory Councils shall be established in such Units and Sub-Units, the population of which contains a substantial number of Tribal Peoples.

264. The Tribes Advisory Councils shall have the power to advise the Government of the Units on all matters pertaining to the

administration of Tribal Areas, if any, and the welfare of the Tribal People in the Unit or Sub-Unit.

265. The Constitution of the Regional and District Autonomous Councils as well as that of the Tribes Advisory Councils shall be determined by Law by the Legislature of the Unit or the Sub-Unit concerned; provided that at least three-fourths of the members of these Councils shall be from amongst Tribal Peoples.

266. The Legislatures shall have power to provide for the adaptation of laws to the Tribal Peoples and Areas. Such laws may empower the Head of the Government to make necessary exceptions, modifications and adaptations in laws, if so advised by the Tribal Commission or the Tribes Advisory Council.

267. Out of the revenues of the Federation such Capital and recurring sums shall be paid to a Unit or a Sub-Unit as grants-in-aid as may be necessary to enable that Unit or Sub-Unit to meet the costs of such schemes of development as may be undertaken by the Unit or Sub-Unit with the approval of the Federal Government for the purpose of promoting the welfare of the tribes in that Unit or Sub-Unit or raising the level of administration of the Tribal Area in that Unit or Sub-Unit to that of the administration of the rest of the areas of that Unit or Sub-Unit.

Chapter XIII

PUBLIC SERVICE COMMISSION

268. (1) Subject to the provisions of this Clause there shall be a Public Service Commission for the Federation and a Public Service Commission for each Unit.

(2) Two or more Units may agree:

(a) that there shall be one Public Service Commission for that group of Units; or

(b) that the Public Service Commission of one Unit shall serve the needs of all other Units of the group;

and any such agreement may contain such incidental and consequential provisions as may appear necessary or desirable for giving effect to the purposes of the agreement and shall, in the case of an agreement that there shall be one Commission for a group of Units, specify by what authorities the functions of the Governor concerning the Public Service Commission shall be discharged.

(3) The Public Service Commission for the Federation if requested so to do by the Head of a Unit may, with the approval of the President of the Federation agree to serve all or any needs of the Unit.

269. The Chairman and other Members of a Public Service Commission shall be appointed, in the case of the Federal Commission by the President of the Federation, and in the case of a Commission of a Unit by the Head of the Unit concerned, subject to confirmation by two-thirds majority of the Legislature concerned.

270. (a) The Chairman and other Members of the Public Service Commission shall not be members of any general representative body and shall not have been Members of the Federal Ministry or any Ministry of any Unit or Sub-Unit within the last five years of the date of appointment.

(b) The Chairman or other Members of the Public Service Commission shall not hold any other office or participate in governing or controlling bodies of societies and associations which work for profit. Nor shall they be a member of any political party or a communal organisation or any such organisation the membership of which may in any way affect adversely their reputation for impartiality or integrity.

271. The service conditions of the Chairman and other Members of the Public Service Commission including those of the staff shall be determined by the Legislatures concerned from time to time provided that neither the salary nor the rights in respect of absence, pension, or age of retirement shall be varied in disadvantage to person after his appointment.

272. The Chairman and other Members of Public Service Commission shall only be removed from office in a like manner and on the like grounds as the Judge of a High Court.

273. The staff of the Public Service Commission shall constitute an independent service and be entitled to rights and privileges with respect to pay, leave, allowances etc. guaranteed and prescribed by law to service of the same grade, status and character.

274. The Chairman and other Members of the Public Service Commission shall make an affirmation of justice and impartiality.

275. To ensure full justice to citizens and efficient service to the state, intervention and any kind of pressure, through letters of recommendations or otherwise, of Ministers, Members of the Legislature and other officials and citizens over Chairman and Members of the Public Service Commission, individually or collectively, in the matter of appointment of public servants, is forbidden.

276. Subject to the provisions of the Constitution the Public Service Commission of the Federation or a Unit shall

- (a) Conduct examinations for appointments to Civil Services of the Federation and those of the Units and Sub-Units respectively;
- (b) advise the Government on any matter referred to them under Clause (277) or any other matter which the President of the

Federation or the Head of the Unit or Sub-Unit, as the case may be, may refer to them;

(c) discharge such other functions as may be provided for by a Law by the appropriate Legislature.

277. Subject to the Laws of the appropriate Legislature a Public Service Commission shall be consulted by the Government concerned:

(a) on all matters relating to the methods and principles to be followed in the recruitment, promotions and transfers of Civil Servants ;

(b) on all disciplinary matters affecting a person serving under the Government concerned including memorials or petitions to such matters,

(c) on any monetary claim by or in respect of a person who is serving or has served the Government concerned in a civil capacity.

278. 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 to posts in connection with the affairs, of the Federation, any Unit or Sub-Unit.

279. No person who is a member of any Civil Service or holds any Civil post in connection with the affairs of the Government of the Federation, the Unit or Sub-Unit shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this Clause shall not apply:

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

(b) Where an authority empowered to dismiss a person or remove him or 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 that person an opportunity of showing cause.

280. The expenses of the Public Service Commission of the Federation or of a Unit including any salaries, allowances and pensions payable to, or in respect of, the members or staff of the Commission shall be charged on the Revenues of the Federation or a Unit as the case may be.

(a) When the Public Service Commission of one Government serves the needs of the other Government there shall be charged on and paid out of the Revenues of the other Government in respect of the expenses or pensions 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.

(b) When the Public Service Commission serves the needs of another Unit, its expenses shall be charged on the Revenues of all Units in such proportion as may be agreed or as may in default of agreement be determined by an arbitrator to be appointed by Chief Justice of India.

Chapter XIV

FINANCIAL ADMINISTRATION

281. All revenues or money raised or received by the Executive Authority of the Federation and various Units and Sub-units for general administrative purposes shall form consolidated Revenue Funds of the Federation and various Units and Sub-Units respectively and shall be appropriated for the purposes of the Federation and various Units and Sub-Units in the manner and under conditions prescribed by the Constitution or Law or determined by the Budget passed by the Legislature concerned.

282. The income, accounts of expenditure and balances of economic enterprises shall be kept separate from Consolidated Revenue Funds as well as from general revenue accounts and balances.

283. Independent audits shall be organised, under the control and supervision of the Auditors-General of the Federation and various Units, to examine the accounts of income and expenditure of each and every agency of the Government concerned including those of economic enterprises with which the Government of the Federation or the Unit is connected. The audit shall include the examination of the expenditure of the endowments, foundations and other institutions administered by an agency of the Government.

284. The Auditors-General of the Federation and the various Units shall be appointed by the President of the Federation and the Heads of the Units respectively subject to confirmation by a two-thirds majority of the Legislature concerned.

285. The Auditors-General shall have the same status as the Presidents of the Public Service Commissions and shall only be removed from office in a like manner and on the like grounds as a member of the Public Service Commission or the Judge of a High Court.

286. The conditions of service of the Auditors-General shall be prescribed by law, provided that neither the salary nor his right in respect of leave of absence, pension or age of retirement shall be varied in his disadvantage after his appointment.

287. The Auditors-General shall not be members of any general representative body and shall not have been a Member of the

Federal Ministry or any Ministry of any Unit or Sub-Unit within the last five years at the date of the appointment.

288. No member of the Audit Department may take part in the direction or administration of enterprises which must render an account to the Government) except enterprises, the exclusive objects of which is the advancement of humanitarian endeavours.

289. The personnel of the Audit Department shall constitute an independent service. They shall be recruited through the Public Service Commissions and entitled to rights and privileges, with respect to pay, leave, allowance etc. guaranteed and prescribed by law to services of the same grade, status and character.

290. Two or more Units may agree-

(a) that there shall be one Audit Department for that group of Units;

(b) that the Audit Department for a particular Unit shall serve the needs of the other Units party to the agreement, and any such agreement may contain such incidental consequential provisions as may appear necessary or desirable for giving effect to the purpose of the agreement and shall, in the case of an agreement that there shall be one common Audit Department, specify what Heads of the Units and the Legislature are to discharge the functions of the Head of the Unit with respect to the Audit Department.

291. The accounts of the Federation and the Units shall be kept in such forms as the Auditors-General of the Federation and various Units respectively, with the approval of the Heads of the Federation and the Units concerned, prescribe. The Auditor-General of the Federation may advise the Governments of the Units with regard to the methods and principles in accordance with which any account of the Units ought to be kept, and the

Heads of the Unit concerned may prefer to follow the advice of the Auditor-General of India.

292. The Auditor-General shall draft the balance sheet of the budget and forward the same with the Audit Report to the Legislature through the Government, which may prepare and submit to the Legislature its note of explanation along with the audited balance sheet and the Audit Report.

293. The expenses of the Audit Department of the Federation or a Unit including any salaries, allowances and pensions payable to or in respect of the members or staff of the Department shall be charged on the Revenues of the Federation or appropriate Unit as the case may be.

(a) When the Audit Department of one Government serves the needs of the other Government there shall be charged on and paid out of the Revenues of the other Government in respect of the expenses or pensions 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.

(b) When an Audit Department serves the needs of another Unit, its expenses shall be charged on the Revenues of all Units in such proportion as may be agreed or as may in default of agreement be determined by an arbitrator to be appointed by Chief Justice of India.

Chapter XV

PROPERTY, CONTRACTS, LIABILITIES AND SUITS

294. As from the commencement of the Constitution, the Federal Government of India and the Government of each Province shall respectively be successors of the Government of the Dominion of India and of the corresponding Governor's Province as regards all property, assets and liabilities subject to any adjustment made or to be made by reason of the creation before the commencement of

the constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab, or by reason of the merger of States, the creation of Sub-Federations and the federating of the States.

295. As from the commencement of this Constitution the Governments of Sub-Federations, the Federated States and Sub-Units shall respectively be the successors of the Governments of the corresponding Sub-Federations, Federated States and other Sub-Units as regards all assets, liabilities and property subject to any adjustment made or to be made by reason of terms of agreements which merged and amalgamated various States and created and established Sub-Federations and Administrators' Sub-Units and federated them and the Federated States with the Dominion of India,

296. Any property in India accrued to the Republic by escheat or lapse or as bona vacantia for want of a rightful owner, shall if it is property situate in a Unit or Sub-Unit, vest in the Republic for the purposes of the Government of that Unit or Sub-Unit and shall in any other case vest in the Republic for the purposes of the Government of the Federation.

297. The Executive Authority of the Federation, Units and Sub-Units shall extend, subject to any Act of the appropriate Legislature, to raise, receive and keep in its custody "Revenues" and accounts of the Federation, the Unit and the Sub-Unit respectively and to defray out of these Revenues expenditure incurred for the purposes of the Government concerned, to take loans upon the security of such Revenues as well as to hold grant, sell, dispose or mortgage 'any property vested in the Republic for the purposes of the Government of the Federation, Unit or Sub-Unit. It also extends to the purchase or acquisition of property on

behalf of the Republic for those purposes respectively and to the making of contracts.

298. All contracts made in the exercise of the Executive Authority of the Federation, a Unit or Sub-Unit shall be expressed to be made by the Head of the Government concerned and all such contracts and assurances of property made in the exercise of that Authority shall be executed on behalf of the Head of the Government concerned by such persons and in such manners as he may direct or authorise. Neither the Head of the Government concerned nor any person acting on behalf of them shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution.

299. The Federation, a Unit or Sub-Unit may sue or be sued by the name of the Federation, the Unit or the Sub-Unit concerned.

Chapter XVI

AMENDMENTS

300. This Constitution of the Republic of India may be amended by a law of the Federal Legislature adopted by a majority of not less than two-thirds of the votes cast in two different sessions at the interval of at least three months. Provided that the provisions of this Constitution to the extent they relate to the Constitution of the Units or Sub-Units may be amended by a Federal Law passed by a majority of the total membership of the Federal Legislature in case the amendment concerned is desired by the Legislature on the Unit or Sub-Unit concerned with a two-thirds majority of votes cast.

301. This Constitution of the Republic is its fundamental law and commands the supreme allegiance of public authorities and the people of India. A law or order which in any way contravenes any provision of this Constitution shall be invalid and stand abrogated to the extent of such inconsistency and contravention.

Chapter XVII

TRANSITORY PROVISIONS

302. Until the Federal Legislature has been duly constituted and summoned under this Constitution, the Constituent Assembly shall itself exercise all powers and discharge all the duties of the Federal Legislature.

303. Until the Provincial Legislatures have been duly constituted and summoned under this Constitution, the Provincial Legislative Assemblies as they would exist at the commencement of the Constitution shall exercise all the powers of the Provincial Legislatures.

304. Such persons as the Constituent Assembly shall have elected in this behalf shall be the provisional President of the Federation until a President has been duly elected under this Constitution.

305. Such persons as the Provincial Legislative Assembly shall have elected in this behalf shall be the provisional Governor of the Province until a Governor has been duly elected under this Constitution.

306. Such persons as shall have been appointed in this behalf by the provisional President shall be deemed to form the first Council of Ministers of the Federation under this Constitution and retain offices as long as they command the confidence of the Constituent Assembly.

307. Such persons as shall have been appointed in this behalf by the provisional Governor shall be deemed to form the first Council of Ministers of the Province under this Constitution and retain office so long as they command the confidence of the Provincial Legislature concerned.

308. Until the system of Government is reorganised in Sub-Federations and the Federated States in accordance with this Constitution the Governments as they would exist in them at the commencement of this Constitution shall continue to administer the public affairs.

309. Until the Supreme Court is itself constituted under this Constitution, the Federal Court shall be deemed to be the Supreme Court and shall exercise all the functions of the Supreme Court. Provided that all cases and suits pending before the Federal Court and the Judicial Committee of the Privy Council at the date of the commencement of this Constitution shall stand removed to and be disposed of by the Supreme Court.

310. Except for holders of office specified in Schedule every person who, immediately before the date of the commencement of the Constitution, was in the service of the Crown in India, including any Judge of the Federal Court or of any High Court, shall on that date be transferred to the appropriate service of the Federation or the Unit concerned and shall hold office by a tenure corresponding to his tenure.

311. Existing taxes and duties shall continue to be levied until altered or repealed by a competent authority. The Budgets of expenditure in operation at the commencement of the Constitution shall be enforced until a new budget is passed or the period of operation of the old budget expires.

312. Subject to this Constitution, all laws, decrees, orders, instructions and rules validly in force in the territories of the Republic immediately before the commencement of the Constitution shall continue in force until altered or repealed or amended by a competent Legislature or other competent authorities.

313. (a) All laws, decrees and rules concerning matters in which the Federation or the Unit, according to this Constitution has the exclusive power of legislation shall be deemed to be those of the Federation and the Units respectively within the meaning of this Constitution.

(b) Indian Laws and laws of the Units concerning matters in which the Federation and the Units, according to this Constitution, have concurrent power of legislation shall continue to be the Federal Laws and laws of various Units respectively within the meaning of this Constitution.

314. The President of the Federation may by order extend to Sub-Federations and Federated States such laws in force in British India before the commencement of this Constitution as deal with matters and subjects placed under the exclusive legislative jurisdiction of the Federation under this Constitution. Such laws may be extended with such adaptations and modifications as may be necessary to bring these laws in conformity with the provisions of this Constitution and shall be operative until altered or repealed or amended by the Federal Legislature or other competent authority.

315. With the concurrence of the Legislature concerned the President of the Federation in case of Federal and Indian laws and the Heads of various Units in cases of laws of their Units may by order provide that until repealed or amended by competent authority these laws in force before the commencement of the Constitution shall have effect as from a specified date subject to such adaptations and modifications as appear to him to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Constitution.

316. The transition to this Constitution shall be regulated by a special Constitutional Law, which shall become effective at the same time as this Constitution,

The special Constitutional Law shall be passed by the Constituent Assembly and can be modified and repealed by the Constituent Assembly and the Federal Assembly by a simple majority vote.

The special Constitutional Law may notwithstanding anything contained in this Constitution

(a) make provision for such salaries, allowances to various officials as are to be determined by law under this Constitution, so long as they are not so determined by the competent authority.

(b) make provision of rules, oaths, forms of affirmation etc. which are to be determined by law, the Legislature, or any executive authority so long they are not so determined by a competent authority.

(c) make such other provisions for the purpose of removing any unforeseen difficulties in bringing into operation this Constitution.

The special Constitutional Law shall cease to be operative after the expiration of three years from the commencement of this Constitution, provided that the special Constitutional Law or certain parts thereof may be repealed or become obsolete earlier.

317. This Constitution, unless otherwise provided by a declaration of the President of the Constituent Assembly, shall be effective on the 14th day of its publication in the official gazette.

318. On the day of the commencement of this Constitution the Indian Independence Act, 1947, and the Government of India Act 1935, including the India (Central Government and Legislature) Act 1946, and all other enactments amending or supplementing the Government of India Act, 1935 shall cease to have effect.

Draft Constitution of India, by the Socialist Party, 21st February 1948. Source: CONSTITUTION OF INDIA WEBSITE.

https://www.constitutionofindia.net/historical_constitutions/draft_constitution_of_the_republic_of_india_socialist_party_1948_1st%20January%201948