



**DRAFT CONSTITUTION**  
**OF**  
**THE ISLAMIC REPUBLIC OF PAKISTAN**

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[TO BE INTRODUCED IN THE CONSTITUENT ASSEMBLY OF PAKISTAN]

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*In the name of Allah, the Beneficent, the Merciful*

WHEREAS sovereignty over the entire Universe belongs to Allah Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust ;

AND WHEREAS the founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, repeatedly declared that Pakistan would be a democratic State based on Islamic principles of social justice ;

This Constituent Assembly, representing the people of Pakistan, resolved to frame for the sovereign independent State of Pakistan a constitution ;

WHEREIN the State should exercise its powers and authority through the chosen representatives of the people ;

WHEREIN the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam, should be fully observed ;

WHEREIN the Muslims should be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam, as set out in the Holy Quran and the Sunnah ;

WHEREIN adequate provision should be made for the minorities freely to profess and practise their religion and develop their culture ;

WHEREIN the territories now included in, or in accession with, Pakistan and such other territories as may hereafter be included in or accede to Pakistan should form a Federation wherein the Provinces would be autonomous with such boundaries and limitations on their powers and authority as might be prescribed ;

WHEREIN should be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality ;

WHEREIN adequate provision should be made to safeguard the legitimate interests of minorities and backward and depressed classes ;

WHEREIN the independence of the judiciary should be fully secured ;

WHEREIN the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air should be safeguarded ;

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the world and make their full contribution towards international peace and progress and the happiness of humanity.

Now, therefore, we the people of Pakistan in our Constituent Assembly this twenty-fifth day of December, in the year nineteen hundred and fifty-four, do hereby adopt, enact and give to ourselves this Constitution.

## PART I

## General Provisions

1. This Constitution shall be the supreme law of Pakistan and shall be binding upon all legislatures, courts, authorities and persons within the territory of Pakistan and upon all citizens whether inside or outside that territory. Supremacy of the Constitution.

2. (1) Any law or any provision of a law which is repugnant to the Constitution shall, to the extent of the repugnancy, be void. Repugnancy of laws to the Constitution.

(2) In this Article the term "law" includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law.

3. (1) Neither Parliament nor any Legislative Assembly shall be competent to enact any law repugnant to the Holy Quran and the Sunnah: Repugnancy of laws to the Holy Quran and the Sunnah.

Provided that this clause shall apply to a law or to a provision of a law relating to taxation, currency, banking, loans, mortgages, investments, insurance, provident or superannuation funds, bills of exchange, promissory notes, or any other matter affecting the economic, financial or credit system of Pakistan only in the manner prescribed by clause (2).

(2) After the expiration of a period of twenty-five years from Constitution Day a Commission shall be appointed by the President to report on the steps and stages by which the provisions of this Article can be made applicable to the matters set out in the proviso to clause (1), and the said provisions shall be made applicable to those matters in accordance with law made by Parliament after considering the report of the Commission. Any such law—

(a) shall not be deemed to be an amendment of the Constitution for the purposes of Articles 4 and 5; and

(b) shall not affect any rights, liabilities or obligations created or incurred before its enactment.

(3) The Supreme Court to the exclusion of every other court or authority shall have power to declare that any law or any provision of a law is void on the ground that it is repugnant under clause (1). The jurisdiction of the Supreme Court shall be exercised by way of special leave and any citizen may apply for such leave within ninety days from the publication of the law in the Gazette of Pakistan or the official Gazette of the Province as the case may be. The application for special leave and, when such leave is granted, the case itself, shall be heard and determined by a bench of not less than five judges.

*Explanation.*—In the application of this Article to the personal law of any Muslim sect the expression "the Holy Quran and the Sunnah" shall mean the Holy Quran and the Sunnah as interpreted by that sect.

4. (1) An amendment to the Constitution may be initiated only by the introduction of a Bill for that purpose in either House of Parliament, but shall not be presented for the President's assent until it has been passed by both Houses. Amendment of the Constitution.

(2) The Bill shall be deemed to have been passed by both Houses if it is passed in each House in identical terms, by a majority of the total number of members of that House and by not less than two-thirds of the members of that House present and voting:

Provided that if the Bill, having been passed by one House, is passed by the other House with any amendment, the amendment shall be referred to the former House, and if the amendment is passed by that House by a majority of the total number of members of that House and by not less than two-thirds of the members of that House present and voting, the Bill shall be deemed to have been passed by both Houses in identical terms.

(3) When the Bill has been passed by both Houses, it shall be presented to the President who shall within thirty days declare that he assents thereto; and when he assents the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if the Bill seeks to effect any change in any of the following provisions,

Articles 1 to 4, 43 to 46, 48, 53, 71 to 74, 118, 162 to 194 and 201 to 211, the Second Schedule and the Fifth Schedule, it shall not be presented for the President's assent until it has been ratified by resolution of the Legislative Assembly of every Province.

(4) The question whether the Bill falls within the proviso to clause (3) shall be decided by the Chancellor after consultation with the Speaker, and the Chancellor's decision thereon shall be final.

(5) This Article shall not apply to any amendment of any provision of the First, Third, Fourth or Sixth Schedule.

Amendment  
of Schedules.

5. (1) The Schedules shall form part of the Constitution.

(2) Any provision of the First, Fourth or Sixth Schedule may be amended or repealed by Act of Parliament:

Provided that if any Bill which seeks to amend or repeal any provision of the First or Fourth Schedules is submitted to a Joint Sitting in accordance with Clause (2) of Article 87 it shall be deemed to have been passed by both Houses of Parliament if it is passed in the Joint Sitting by a majority of the total number of members of the two Houses, and accordingly Clause (3) of Article 87 shall not apply.

(3) The Third Schedule may be amended or repealed in relation to any Province by the Legislative Assembly of that Province.

Interpreta-  
tion.

6. (1) In this Constitution, unless the context otherwise requires—

“Acceded State” means any former Indian State which acceded to Pakistan under the Indian Independence Act, 1947, and the Government of India Act, 1935, or which may accede after Constitution Day.

“Act of the Legislative Assembly” includes an Ordinance made by the Governor in accordance with the Constitution;

“Act of Parliament” includes an Ordinance made by the President in accordance with the Constitution;

“Agricultural income” means agricultural income as defined for the purposes of the enactments relating to income-tax;

“Article” means an Article of the Constitution;

“Baluchistan Province” includes its Special Areas.

“Borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;

“Citizen” means a citizen of Pakistan according to the law for the time being in force;

“Clause” means a clause of the Article in which the expression occurs;

“Constituent Assembly” means the Constituent Assembly of Pakistan established under the Indian Independence Act, 1947;

“Constitution Day” means the day fixed by resolution of the Constituent Assembly as Constitution Day;

“Corporation tax” means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(a) that it is not chargeable in respect of agricultural income;

- (b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals ; and
- (c) that no provision exists for taking the tax so paid into account in computing for the purposes of income-tax the total income of individuals receiving such dividends or in computing the income-tax payable by, or refundable to, such individuals;
- “ Debt ” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “ debt charges ” shall be construed accordingly ;
- “ Eastern Region ” means East Bengal Province ;
- “ Elector ” means a person whose name is included in an electoral roll ;
- “ Estate duty ” means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under law made by Parliament relating to the duty, of all property passing upon death or deemed, under the provisions of the said law, so to pass;
- “ Existing law ” means any law, ordinance, order, bye-law, rule or regulation in force immediately before Constitution Day enacted by any Legislature, authority or person having power to make such law, ordinance, order, bye-law, rule or regulation ;
- “ Federal Legislature ” means the Federal Legislature under the Government of India Act, 1935, as applied to Pakistan;
- “ Frontier States ” means the States of Chitral, Swat, Dir and Amb;
- “ Goods ” includes all materials, commodities and articles;
- “ Government of the Federation ” means the President acting in accordance with the advice of the appropriate Minister or Ministers of the Federation;
- “ Government of the Province ” means the Governor of the Province acting in accordance with the advice of the appropriate Minister or Ministers of the Province;
- “ Guarantee ” includes any obligation undertaken before Constitution Day to make payments in the event of the profits of an undertaking falling short of a specified amount;
- “ Joint resolution ” means an identical resolution passed or intended to be passed by both Houses of Parliament;
- “ Joint Sitting ” means the Senate and the House of Representatives sitting together;
- “ Judge ” includes a Chief Justice;
- “ Minister ” includes the Prime Minister, or a Chief Minister;
- “ The North-West Frontier Province includes its Special Areas ;
- “ Oath ” in the case of a person who is not a Muslim means an affirmation;
- “ Part ” means a Part of the Constitution;
- “ Pension ” means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, or gratuity so payable, and any sum or sums payable by way of return, with or without interest thereon or any addition thereto, of subscriptions to a provident fund ;
- “ Province ” includes subject to Article 9, East Bengal Province, the Punjab Province, Sind Province, the North-West Frontier Province (including its Special Areas), Baluchistan Province (including its Special Areas), the States of Bahawalpur and Khairpur, but does not include any other Acceded State or Karachi ;

- “Provincial Legislature” means the Legislature of a Province under the Government of India Act, 1935, as applied to Pakistan;
- “Public notification” means a notification in the *Gazette of Pakistan* or, as the case may be, the official Gazette of a Province;
- “Railway” includes a tramway not wholly within a municipal area;
- “Ruler” in relation to an Acceded State means the person who for the time being is recognized by the President as the Ruler of that State;
- “Schedule” means a Schedule to the Constitution;
- “Scheduled Castes” means such castes, races or tribes or parts of or groups within such castes, races or tribes as are from time to time specified as such by the President;
- “Securities” includes stock;
- “Service of Pakistan” means service which, but for the enactment of the Constitution, would have been service of the Crown in Pakistan and shall include service under the Government of the Federation or of a Province, on the staff of Parliament or of a Legislative Assembly, under the Supreme Court or a High Court or the Comptroller and Auditor-General or a Public Service Commission or Election Commission, and any other service which is declared by an Act of Parliament or of a Legislative Assembly to be Service of Pakistan: Provided that a person shall not be deemed to be in the Service of Pakistan for the purposes of Part X if he is President, Governor of a Province, Chancellor or Deputy Chancellor, Speaker or Deputy Speaker of the House of Representatives or a Legislative Assembly, Minister, Deputy Minister or Parliamentary Secretary for the Federation or a Province, Judge of the Supreme Court or a High Court, Advocate General for the Federation or a Province, Comptroller and Auditor-General, or a member of either House of Parliament or of a Legislative Assembly.
- “Special Areas” means, in relation to Baluchistan Province, the States of the Baluchistan States Union, namely, Kalat, Makran, Lasbela and Kharan; and in relation to the North-West Frontier Province it means the States of Chitral, Swat, Dir and Amb and the Tribal Areas of the Province;
- “Taxation” includes the imposition of any tax or impost, whether general or local or special, and “tax” shall be construed accordingly;
- “Tax on income” includes a tax in the nature of an excess profits tax;
- “Voter” means a person who casts or offers to cast a vote;
- “Western Region” means the Punjab Province, the North-West Frontier Province (including its Special Areas), Sind Province, Baluchistan Province (including its Special Areas), the States of Bahawalpur and Khairpur, and Karachi.

(2) Unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to such adaptations and modifications as may be made therein under Article 253, apply for the interpretation of the Constitution as it applies for the interpretation of an Act of Parliament.

(3) Where under the Constitution—

- (a) there is any reference to the total number of members it shall, unless the context otherwise requires, be construed as a reference to the total number of members inclusive of any seats which may for the time being be vacant; and
- (b) there is any reference to thirty per cent of the total number of members or thirty per cent of the members present and voting and thirty per cent is not a whole number, it shall be construed as a reference to the nearest whole number below thirty per cent.

*Illustration.*—Thirty per cent of 250 shall be 75 but thirty per cent of 249 shall be 74.

## PART II

## The Territories of Pakistan

7. (1) The name of the State shall be the Islamic Republic of Pakistan, in this Constitution referred to as "Pakistan". Name and territory.

(2) Pakistan shall be a Federal Republic.

(3) The territories of Pakistan shall be the territories of the Dominion of Pakistan immediately before Constitution Day and such additional territories as may thereafter be included in Pakistan, with the approval of the President.

8. (1) Subject to the provisions of this Article, Parliament may by law—

- (a) increase the area of any Province ;
- (b) diminish the area of any Province ;
- (c) alter the boundaries of any Province ;
- (d) change the name of any Province ;
- (e) form a new Province by the separation of territory from any Province, or by the union of two or more Provinces or parts of Provinces, or by the creation of a Province out of territory which does not form part of a Province, or by the union of any such territory to a part of a Province.

Formation of new Provinces and alterations of existing Provinces.

(2) No Bill for any of the purposes aforesaid shall be introduced in either House of Parliament unless—

- (a) the previous sanction of the President has been obtained ; and
- (b) if the Bill proposes to affect any Province in any manner whatsoever the introduction and the contents of the Bill have been approved by resolution of the Legislative Assembly of that Province.

(3) Any Act of Parliament under this Article may contain such supplementary, incidental and consequential provisions as may be deemed necessary and, notwithstanding anything in Articles 4 and 5 such Act may amend any provision of the Constitution.

9. (1) Karachi shall be the Capital of Pakistan and its territory shall be the territory of Karachi immediately before Constitution Day. Capital of Pakistan.

(2) Parliament may provide by law for the governance of Karachi and, subject to any such law, Karachi shall be administered by the President.

10. (1) Parliament may provide by law for the governance of the territories of Pakistan for which no provision has been made by the Constitution and for their representation in both Houses of Parliament. Governance and representation of territories of which no provision has been made by the Constitution.

(2) Any Act of Parliament under this Article may contain such supplementary, incidental and consequential provisions and, notwithstanding anything in Article 4, such Act may amend any provision of the Constitution.



## PART III

## Fundamental Rights

- Equality before law.  
Equal protection of law.  
Protection of life and liberty.  
Protection against retrospective offences.
11. All citizens are equal before law.
12. Equal protection of law shall not be denied to any person.
13. No person shall be deprived of life or liberty save in accordance with law.
14. No person shall be punished for an act which was not punishable by law when the act was done, nor shall any person be sentenced to a punishment more severe in duration or nature than that prescribed by law when the offence was committed.
- Prohibition of discrimination in respect of access to public places.
15. In respect of access to any place of public entertainment or to any other place dedicated to the use of the general public and not intended for religious purposes there shall be no discrimination on the ground only of religion, race, caste or place of birth.
- Prohibition of Slavery.
16. No person shall be held in slavery.
- Prohibition of forced labour.
17. All forms of forced labour are prohibited save only compulsory service for public purposes and such other forms of employment by public authorities as may be authorised by law.
- Prohibition of cruel treatment or punishment.
- \*18. No person shall be subjected to torture or to any cruel or inhuman treatment or punishment.
- Prohibition of employment of children in dangerous occupations.
- †19. No child under the age of fourteen years shall be employed in any mine or in any other occupation involving danger to life or injury to health.
- Prohibition of discrimination in matters of public employment.
- ‡20. No citizen otherwise qualified for appointment in the service of Pakistan shall, be ineligible on the ground only of religion, race, caste, sex or descent :  
Provided that nothing in this Article shall prevent the reservation of posts for members of any minority community or backward class in order to secure their adequate representation in the said service, of Pakistan :  
Provided further that in the interest of the said service specified posts or classes of posts may be reserved for members of either sex :  
Provided further that it shall not be unlawful to provide that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body of any such institution shall be a person professing that religion or belonging to that denomination.
- Restrictions on the compulsory acquisition of property.
21. (1) No person shall be deprived of his property save in accordance with law.  
(2) No property shall be acquired or taken possession of for public purposes under any law unless the law provides for adequate compensation and either fixes

\*18. This Article corresponds to paragraph 5 (3) of the Basic Principles Committee Report. The Committee recommends its deletion. In case it is decided to retain this provision, it should be in the form given above.

†19. In view of the facts that certain I. L. O. conventions on this subject have been ratified by the Government of Pakistan, and some laws have been enacted and further legislation is also in contemplation, the Committee recommends the deletion of this Article. The Committee feels that it should be left to the future Parliaments to make appropriate laws on the subject.

‡20. The words "place of birth" occurring in paragraph 7 of Part II of the Interim Report of the Committee on Fundamental Rights have been omitted from this Article because the use of these words will prevent the fixation of provincial ratio in the service. These words can be inserted only if the fixation of provincial quotas in services be abolished.

the amount of the compensation or specifies the principles on which and the manner in which compensation is to be determined.

(3) Nothing in this Article shall affect the validity of any existing law.

(4) Any provision of any law enacted after Constitution Day which is repugnant to clause (1) or clause (2) of this Article shall not be invalid if the law declares that notwithstanding the provisions of this Article, it is expedient in the public interest that such provision be enacted.

(5) Nothing in this Article shall affect the validity of any law relating to public health, decency, morality or danger to life or property, or prevent the imposition or levy of any tax.

22. Subject to the law of libel, slander, and defamation, to the requirements of decency, morality, public order, and public security and to any rules relating to persons in the service of Pakistan, every citizen is guaranteed freedom of speech, expression, association and peaceful assembly without arms. Freedom of speech, etc.

23. Every qualified citizen is guaranteed the right to enter upon any lawful occupation, to conduct any lawful trade or business and to acquire or dispose of property in accordance with law; but nothing in this Article shall prevent the establishment of a licensing system or the regulation of any trade or profession provided that it involves no personal discrimination. Freedom of occupation, etc.

24. (1) Every citizen is guaranteed the right to move freely throughout Pakistan and to reside and settle in any part thereof. Freedom of movement.

(2) Nothing in this Article shall affect the validity of any existing law or any order of a court of law or of a tribunal acting as a court of law.

(3) Nothing in this Article shall prevent the imposition of a restriction on the right conferred by this Article if such restriction is reasonable and in the public interest or it is needed for the maintenance of public order.

25. (1) Freedom of conscience and the right to profess, practise and propagate religion are guaranteed, subject to the requirements of public order and morality. Freedom of conscience.

(2) Nothing in this Article shall affect the validity of any existing law or prevent the making of any law which regulates or restricts any secular activity which may be associated with religious practice.

26. Subject to public order and the requirements of morality, every religious denomination and every sect thereof shall enjoy freedom in the management of its religious affairs and in particular may establish and maintain religious and charitable institutions, and for that purpose may acquire, hold and dispose of property. Freedom to manage religious affairs.

27. (1) No person attending any educational institution shall be required to receive religious instruction or to take part in any religious ceremony or to attend religious worship, other than that of his own community or denomination. Safeguards in respect of educational institutions.

(2) No community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained by that community or denomination.

(3) No educational institution maintained wholly out of funds provided by a particular community or denomination shall be refused recognition by any public authority solely on the ground that it refuses admission to persons of a different community or denomination.

(4) In the making of grants to educational institutions there shall be no discrimination against any such institution on the ground that it is in the main maintained by a religious minority.

(5) No citizen shall be denied admission to any educational institution wholly maintained out of public revenues on the ground only of race, religion, caste or place of birth : but any public authority may make special provision for the advancement of any socially or educationally backward class of citizens.

(6) In respect of any religious institutions there shall be no discrimination against any community in the grant of exemption from or any concession in respect of taxation.

(7) No minority residing in the territory of Pakistan or any part thereof and having a distinct language, script or culture shall be prevented from conserving the same.

**Safeguards against taxation for purposes of any particular religion.** 28. No person shall be compelled to pay any special tax the proceeds of which are to be appropriated towards the propagation or maintenance of any religion other than his own.

**Abolition of untouchability.** \*29. The practice of "untouchability" in any form shall be forbidden.

**Exemption in respect of existing personal Law.** 30. Nothing in this Chapter shall affect the validity of any rule of personal law in operation immediately before Constitution Day.

**Enforcement of fundamental Rights.** 31. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) Without prejudice to the powers vested in any court by or under the Constitution, the Supreme Court and the High Courts within the local limits of their respective jurisdiction, shall have power to issue any order or writ, including a writ in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* or *certiorari*, for the enforcement of any of the rights guaranteed by this Part.

\*The Drafting Committee decided, by a majority, that a provision requiring the State to make the practice of untouchability an offence should be included in the Directive Principles of State Policy.

## PART IV

## Directive Principles of State Policy

32. (1) In this Part, unless the context otherwise requires, the expression "the State" includes the Government and Parliament of the Federation, the Government and Legislative Assembly of every Province, and all local authorities and other similar authorities in Pakistan. Application of this Part.

(2) The State shall be guided in the formulation of its policies by the provisions of this Part, but those provisions shall not be enforceable in any court.

33. The State shall be guided in its policies and activities by the principles enunciated in the Preamble. Principles in the Preamble to be followed.

34. The State shall endeavour to strengthen the bonds of unity among Muslim countries, to promote international peace and security, to foster goodwill and friendly relations among all nations, and to encourage the settlement of international disputes by peaceful means. Promotion of Muslim unity and international peace.

35. (1) Steps shall be taken to enable the Muslims of Pakistan individually and collectively to order their lives in accordance with the Holy Quran and the Sunnah, and in particular the State shall endeavour to— Promotion of Islamic principles.

- (a) provide facilities for the Muslims of Pakistan to understand the meaning of life according to the Holy Quran and the Sunnah; and the teaching of the Holy Quran to them shall be compulsory;
- (b) promote and maintain the observance of Islamic moral standards;
- (c) secure proper organisation of Zakat, Wakfs and Mosques;
- (d) prohibit prostitution, gambling and the consumption, except for medicinal purposes, of alcoholic drinks and other intoxicants;
- (e) eliminate *Riba* as and when it may be possible to do so.

(2) Suitable steps shall be taken to bring the existing laws into conformity with Islamic principles and for the codification of such injunctions of the Holy Quran and the Sunnah as can be given legislative effect, but duly safeguarding, as has been enjoined by the Holy Quran and the Sunnah, the personal laws of those who are not Muslims.

(3) The State shall discourage parochial, tribal, racial, sectarian, and provincial prejudices and similar un-Islamic sentiments among the citizens, and shall seek to keep foremost in the minds of the Muslims of Pakistan the fundamental unity and solidarity of the Millat, and the fundamental requirements of the ideology and the mission for the implementation of which Pakistan came into being.

\*36. The State shall protect all the legitimate rights and interests of the non-Muslim communities of Pakistan and in implementation of Article 29. Parliament shall enact laws making the practice of untouchability an offence. Protection of minorities.

37. The State shall—

- (a) promote with special care the educational and economic interests of the backward classes, and in particular of the scheduled castes and the people of the tribal areas; Principles for social uplift.
- (b) endeavour to ensure that children and women are not subjected to exploitation nor employed in avocations unsuited to their age or sex;
- (c) remove illiteracy within the minimum possible period and make every effort to provide free and compulsory primary education within fifteen years from Constitution Day;

\*Note on Article 36.—Please refer to footnote under Article 29.

- (d) within the minimum possible period enable the population of different areas, through training and education, to participate fully in all forms of national activity and to secure employment in the service of Pakistan ;
- (e) make provision for securing just and humane conditions of work and for maternity benefit for women in employment.

Protection of places of worship, etc.

38. The State shall protect all duly established places for worship, burial and disposal of the dead.

Principles for social and economic security.

39. The State shall endeavour to—

- (a) provide social security for all persons in Government and private employment by means of compulsory social insurance or otherwise ;
- (b) secure for all citizens irrespective of creed, race or caste, who are temporarily or permanently incapable of earning their livelihood owing to unemployment, infirmity, sickness or other causes, the basic necessities of life such as food, clothing, housing, education and medical relief ;
- (c) revise the emoluments of the various classes of Government servants so as to reduce disparity to a reasonable minimum.

Principles of economic policy.

40. The State shall direct its economic policy towards—

- (a) ensuring for all citizens, within the economic resources of the country, facilities for work and adequate means of livelihood, with reasonable rest and leisure ;
- (b) securing the well-being of the people irrespective of creed, race or caste, and in particular, it shall be the duty of the State to raise the standard of living of the common man, to prevent the concentration of wealth and the means of production and distribution in the hands of a few to the detriment of the interests of the common man, and to ensure equitable adjustment between the rights of employers and employees, and landlords and peasants so as to prevent exploitation.

Separation of the Judiciary and the Executive.

41. The State shall endeavour to separate the Judiciary from the Executive within three years from Constitution Day.

Principles for the election of the President.

\*42. While electing a President under Article 44 the Joint Sitting shall have due regard to the need for securing a President who, in the opinion of the members of both Houses of Parliament, possesses ability, character, integrity and piety and who is fit to perform the duties of his office in accordance with the principles

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\*The Committee recommends the deletion of this Article, as in their opinion it is unnecessary.

## PART V

## The Federation

## CHAPTER I—THE PRESIDENT

43. (1) There shall be a President of Pakistan, in this Constitution referred to as "the President". The President.

(2) The executive authority of the Federation shall vest in the President and shall be exercised by him in accordance with the Constitution and with law.

(3) Except where it is expressly so provided in the Constitution that the President shall exercise a function in his discretion, the President shall act in accordance with the advice of the appropriate Minister or Ministers.

(4) The question whether any, and if so what, advice has been tendered by a Minister to the President shall not be enquired into in any court.

(5) Nothing in this Article shall affect the validity of any law vesting powers in or imposing duties upon any Minister, board, commission or other authority.

44. (1) The President shall be elected at a Joint Sitting in accordance with rules framed by a Joint Sitting, and until rules are so framed, in accordance with the rules in the First Schedule. Election of the President.

(2) To fill an impending vacancy due to the retirement of the President, election of his successor may be held at any time not earlier than three months before the date of his retirement, and shall, if possible, be completed before that retirement.

(3) A person shall not be deemed to be elected President unless he receives the votes of the majority of the members present and voting and that majority includes at least thirty per cent. of the total number of members from the Eastern Region and at least thirty per cent. of the total number of members from the Western Region.

(4) All matters relating to the election of the President shall be within the exclusive jurisdiction of the Joint Sitting.

(5) The election of the President shall not be questioned in any court.

45. (1) No person shall be qualified for election as President unless he— Qualifications for election as President.

(a) is a Muslim ;

(b) is a citizen ;

(c) has attained the age of forty years ; and

(d) is qualified for election as a member of the House of Representatives.

(2) A person shall not be eligible for election as President if he holds any office of profit in the service of Pakistan, or under any local or other authority subject to the control of the Government of the Federation or the Government of any Province.

*Explanation.*—For the purposes of this clause, a person shall not be deemed to hold an office of profit if he holds the office of President,

Chancellor or Deputy Chancellor, Speaker or Deputy Speaker of the House of Representatives, Governor of a Province, Speaker or Deputy Speaker of a Legislative Assembly, or Minister, Deputy Minister or Parliamentary Secretary of the Federation or a Province, or is a Member of either House of Parliament or of a Legislative Assembly :

(3) The President shall not hold any other office of profit in the service of Pakistan; and if a Member of either House of Parliament or of a Legislative Assembly is elected President his seat in that House or Assembly shall become vacant on the date on which he assumes office as President.

Term of office of the President.

46. (1) The term of office of the President shall be five years from the date on which he assumes office :

Provided that when a person is elected to fill a casual vacancy his term of office shall be the remainder of his predecessor's term of office.

(2) No person shall hold office as President consecutively for more than ten years, excluding any period during which he may have served as President under the proviso to clause (1).

(3) The President may in his discretion resign his office by writing addressed to the Chancellor.

Provisions relating to Acting President.

47. (1) In the event of a vacancy (in this Part referred to as a "casual vacancy") in the office of President due to his death, resignation, or removal, or in the event of an interval between the retirement of the President and his successor's assumption of office, the following persons, if qualified for election as President under clause (1) of Article 45, shall assume office as Acting President in the order set out below, that is to say—

(i) The Chancellor,

(ii) The Speaker of the House of Representatives,

(iii) The Governors of Provinces (other than Rulers who are Governors) in order of the dates of appointment to their respective offices.

(2) The person designated in clause (i) shall also assume office as Acting President if—

(a) the President is outside Pakistan; or

(b) the President informs the Prime Minister in writing that he is temporarily unable to perform his duties; or

(c) the Cabinet is of opinion that the President is temporarily unable to perform his duties and is also unable to give notice under paragraph (b);

(3) A person who becomes Acting President shall not, by reason of his being Acting President, vacate the office which qualifies him as such, nor vacate his seat in Parliament if any; but he shall not exercise the functions of that office, nor sit in Parliament, so long as he is Acting President.

(4) The Acting President, shall have all the powers of the President until a new President is elected or the President is able to resume his duties, as the case may be :

Provided that if the Acting President ceases to hold the office which qualifies him to be Acting President, he shall cease to be Acting President.

48. (1) If a requisition for the consideration of a motion for the removal of the President, signed by a majority of the total number of members of either of the two Houses of Parliament is received by the Chancellor, the Chancellor shall summon a Joint Sitting for that purpose.

(2) At least thirty days' notice shall be given of such motion and it shall be deemed not to have been passed unless it is supported by not less than two-thirds of the total number of members of the two Houses, and on the passing of the motion the office of President shall be deemed to be vacated.

49. The President shall be entitled to such salary, allowances and privileges as may be determined by Act of Parliament :

Provided that, after they have been determined by an Act of Parliament, his salary, allowances and privileges shall not be varied to his disadvantage during his tenure of office.

50. (1) A person who has served as President for a period of not less than five years shall, after his retirement from that office, be entitled for his life to such pension as may be determined by Act of Parliament, but the pension shall be suspended so long as the President holds any office of profit in the service of Pakistan.

(2) Notwithstanding anything in clause (1), no pension shall be payable to a person who has been removed from the office of President under Article 46 on the ground of his misconduct.

51. Before the President or the Acting President assumes office, he shall make and subscribe before the Chief Justice of Pakistan or, in his absence, the next senior Judge of the Supreme Court available, an oath in the form set out in the First Schedule.

52. (1) All executive actions of the Government of the Federation shall be expressed to be taken in the name of the President.

(2) The President shall make rules specifying the manner in which orders and other instruments made and executed in his name shall be authenticated, and the validity of an order or instrument which is so authenticated shall not be questioned on the ground that it is not made or executed by the President.

(3) The President shall also make rules for the allocation and transaction of the business of the Government of the Federation. Such rules may require Ministers, Deputy Ministers, Parliamentary Secretaries and officers of the Government to transmit to the President such information as may be specified, and in particular shall require that all decisions of the Cabinet, proposals for legislation and other important proposals are brought to his notice.

53. Subject to the provisions of the Constitution, the executive authority of the Federation shall extend to all matters with respect to which Parliament has power to make laws :

Provided that, save as expressly provided in the Constitution or in any Act of Parliament, it shall not extend in any Province to any matter with respect to which a Legislative Assembly also has power to make laws.



Supreme  
Command  
of the  
Armed  
Forces.

54. The Supreme Command of the Armed Forces shall vest in the President and the officers of those Forces shall be appointed by him or by some person authorised by him.

Treaties.

\*55. Treaties shall be made, signed and ratified in the name of the President but no treaty of alliance shall be ratified until it has been approved by joint resolution.

Diplomatic  
representa-  
tives.

56. Diplomatic representatives shall be accredited to and by the President.

War and  
peace.

57. The power to declare war and make peace shall vest in the President.

Titles and  
decorations.

58. (1) No title of honour shall be conferred, but the President may award decorations in recognition of valour or distinguished public service.

(2) No citizen shall accept any title of honour from any foreign state.

Pardons,  
reprieves,  
etc., of,  
sentences.

59. (1) The President shall have the power to grant pardons, reprieves, respites and remissions of sentence and to suspend or commute any sentence of death inflicted by any court, tribunal or authority established by law.

(2) The President may make rules for the exercise of the powers conferred by this Article, and such rules may provide for the delegation by the President, subject to such conditions as may be specified, of any of his powers under this Article:

Provided that the President shall not delegate any power relating to death sentences other than the power of suspending such sentences pending a final decision by him.

(3) The functions vested in the President by this Article shall be exercised in his discretion.

Right of  
sending  
messages to  
Parliament.

60. The President may send a message to either House or to both Houses, and the House to which a message is so sent shall consider it with all convenient despatch.

Promulga-  
tion of  
Ordinances.

61. (1) The President may, in cases of emergency and while Parliament is not sitting, make and promulgate ordinances for the peace and good government of Pakistan or any part thereof, and any ordinance so made shall have the like force of law as an Act of Parliament, but the power of making ordinances under this Article shall be subject to the like restrictions as the power of Parliament to make laws and any ordinance made under this Article may be controlled or superseded by any such Act.

(2) Notwithstanding any restriction imposed by clause (1), an ordinance made under this Article may authorise expenditure from the Federal Consolidated Fund.

(3) An ordinance promulgated under this Article shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament or on the passing of a joint resolution disapproving it before that period has expired.

\*The Committee is of the opinion that besides treaties of alliance, certain other treaties involving important commitments on behalf of the country should also be subjected to ratification by Parliament and those should also be included.

## CHAPTER II—THE FEDERAL MINISTRY

62. (1) There shall be a Cabinet, with the Prime Minister at its head, The Cabinet. to aid and advise the President in the exercise of his functions.

(2) The other members of the Cabinet shall be such Ministers as may from time to time be selected for that purpose by the Prime Minister.

(3) After every general election a new Cabinet shall be constituted.

63. (1) The Cabinet shall be collectively responsible to Parliament in Joint Sitting. Collective responsibility of the Cabinet.

(2) As soon as possible after a new Cabinet has been constituted it shall seek a vote of confidence at a Joint Sitting, and no Minister, Deputy Minister or Parliamentary Secretary shall remain in office after the expiration of a period of two months from the date on which the Prime Minister assumes office, unless such a vote of confidence has been secured or unless there is a dissolution of Parliament within the said period, or unless the new Cabinet is constituted during a dissolution but before the ensuing general election.

(3) If at any time a vote of want of confidence in the Government is passed in accordance with Article 104, the Ministers, Deputy Ministers and Parliamentary Secretaries shall tender their resignations which shall be accepted as soon as possible.

64. (1) The President in his discretion shall appoint as Prime Minister a person who is in his opinion able to secure a vote of confidence under clause (2) of Article 63. Appointment and resignation of the Prime Minister.

(2) The Prime Minister may resign by writing addressed to the President, but the resignation shall not take effect until it has been accepted by the President in his discretion.

65. Nothing in this Part shall prevent the President from making such arrangements as the Prime Minister may advise for the performance of any of the Prime Minister's functions which he is temporarily unable to perform, and such functions may include the chairmanship of the Cabinet. Arrangements for temporary performance of the functions of the Prime Minister.

66. (1) A Minister (other than the Prime Minister), Deputy Minister or Parliamentary Secretary— Ministers, Deputy Ministers and Parliamentary Secretaries.

(a) shall be appointed by the President and shall cease to hold office if the President so requires ;

(b) may resign by writing addressed to the President ;

(c) shall cease to hold office when the office of Prime Minister becomes vacant :

Provided that if the office of Prime Minister becomes vacant owing to his death or inability to perform his duties, a Minister, Deputy Minister or Parliamentary Secretary may remain in office until the new Prime Minister is appointed.

(2) One of the Ministers shall be charged with the subject of Minority Affairs ; among his duties shall be that of protecting the interests of minorities and ensuring the observance of the safeguards for minorities in the Constitution.

Only Members of Parliament to be Ministers, Deputy Ministers and Parliamentary Secretaries.

67. (1) No person shall be appointed Minister, Deputy Minister or Parliamentary Secretary unless he is at the time of his appointment a Member of Parliament.

(2) Except during the interval between the dissolution of Parliament and the first meeting of the new Parliament a Minister, a Deputy Minister or a Parliamentary Secretary shall cease to hold office as such if he ceases to be a Member of Parliament.

Salaries and allowances of Ministers, Deputy Ministers and Parliamentary Secretaries.

68. A Minister, Deputy Minister or Parliamentary Secretary shall be entitled to such salary and allowances as may be determined by Act of Parliament :

Provided that, after they have been determined by Act of Parliament, the salary and allowances payable to a person under this Article shall not be varied to his disadvantage during his tenure of office.

Oaths of Ministers, Deputy Ministers and Parliamentary Secretaries.

69. Before a Minister, Deputy Minister or Parliamentary Secretary assumes office he shall make and subscribe before the President or some person authorised by him an oath in the form set out in the First Schedule.

The Advocate-General for the Federation.

70. (1) The President shall appoint an Advocate-General for the Federation.

(2) A person shall be qualified for appointment under this Article if he is qualified to be appointed a Judge of the Supreme Court :

Provided that the age-limit applicable to a Judge of the Supreme Court shall not apply to the Advocate-General.

(3) The Advocate-General shall hold office during the President's pleasure and shall receive such remuneration as may be determined by Act of Parliament.

## CHAPTER III—THE COMPOSITION OF PARLIAMENT

71. There shall be a Parliament consisting of two Houses, to be called the Senate and the House of Representatives.

Constitution  
of  
Parliament.

72. (1) The Senate shall consist of fifty members, each of the following Constituent Areas being represented by ten members, that is to say,—

Composition  
of the  
Senate.

- (a) East Bengal Province ;
- (b) The Punjab Province ;
- (c) The North-West Frontier Province ;
- (d) Sind Province and the State of Khairpur ;
- (e) Baluchistan Province, the State of Bahawalpur and Karachi.

(2) Of the ten members allocated to Sind Province and the State of Khairpur, nine shall be allocated to Sind Province and one to the State of Khairpur ; and of the ten members allocated to Baluchistan Province the State of Bahawalpur and Karachi three shall be allocated to Baluchistan Province, four to the State of Bahawalpur, and three to Karachi :

Provided that the distribution in either of these Constituent Areas may be altered by Act of Parliament when, owing to any Act passed in accordance with Article 8 or to any other cause, there is a substantial change in the proportion which the population of a Province bears to the population of the Constituent Area of which it forms part, but no such Act may alter the number of members allocated to a Constituent Area by clause (1).

*Explanation* :—In this proviso "Province" includes Karachi.

(3) Except as provided in this Article, the members to represent a Province shall be elected by the Legislative Assembly of the Province according to the principle of proportional representation by means of a single transferable vote.

(4) The method of electing the members to represent Karachi under this Article shall be prescribed by Act of Parliament.

(5) The members to represent the North-West Frontier Province, shall be elected in accordance with the principle of proportional representation by means of a single transferable vote by an electoral college consisting of the members of the Legislative Assembly of the North-West Frontier Province and such number of persons from among the people of its Special Areas as may be elected for this purpose and, if election is not possible in any Area then nominated in the manner provided by rules framed by the President :

Provided that the number of persons representing the Special Areas shall be so fixed that it shall as nearly as possible bear the same proportion to the population of those Areas as the number of members of the Legislative Assembly of the North-West Frontier Province bears to the population of the rest of the Province.

(6) The members to represent Baluchistan Province shall be elected in accordance with the principle of proportional representation by means of a single transferable vote by an electoral college, consisting of the members of the Legislative Assembly of Baluchistan Province and such number of persons from among the people of its Special Areas as may be elected for this purpose in the manner provided by rules framed by the President :

Provided that the number of persons representing the Special Areas shall be so fixed that it shall as nearly as possible bear the same proportion to the population of the Special Areas as the number of members of the Legislative Assembly of Baluchistan Province bears to the population of the rest of the Province.

(7) Where under this Article an election is to be conducted according to the principle of proportional representation, rules for the conduct of such election shall be framed by the President.

Composition of the House of Representatives.

73. (1) The House of Representatives shall consist of three hundred members elected for single-member constituencies in accordance with Part I of the Second Schedule.

(2) The distribution of seats allocated under clause (1) to the Western Region may be modified by Act of Parliament—

(a) where the number of Provinces or the population of any Province is altered in accordance with Article 8; or

(b) after each census if the proportionate distribution of the population is substantially changed.

(3) Notwithstanding anything in the Constitution, the manner and method by which seats allocated to the Special Areas in the House of Representatives shall be filled, shall be determined by regulations framed in that behalf by the President.

Allocation of constituencies to communities.

\*74. (1) The constituencies provided in accordance with Article 73 shall be allocated among the various communities in accordance with Part II of the Second Schedule and only a person belonging to the community concerned shall be an elector in or be qualified for election for a constituency allocated to that community.

(2) Each of the constituencies allocated to a community shall have as nearly as possible an equal number of electors.

(3) Where in accordance with clause (2) of Article 73 there is a re-distribution of seats in the Western Region, the distribution of seats among the various communities in the Western Region, as laid down by Part II of the Second Schedule, may be altered by Act of Parliament.

Reservation of seats for women.

75. (1) Notwithstanding anything in the Constitution there shall be reserved for women two additional seats in the Senate and fourteen additional seats in the House of Representatives for two terms of Parliament or a period of ten years from Constitution Day, whichever is the longer.

(2) Of the two women to be elected to the Senate, one shall be elected by the members of the Legislative Assembly of East Bengal Province and the other shall be elected for the Western Region, in the manner provided by Act of Parliament.

(3) The allocation of the fourteen seats reserved for women in the House of Representatives shall be as shown in Part III of the Second Schedule, and the manner in which such seats shall be filled shall be determined by Act of Parliament.

(4) Notwithstanding the provisions of Article 75, a woman may be a voter in a constituency established under this Article as well as in a constituency established under Article 74.

Electoral rolls.

76. (1) There shall be an electoral roll for each constituency which shall be revised annually and the electoral roll so revised shall come into operation in each year on such date as may be fixed by the Election Commission.

\*On the basis of population the Christians of Bengal and the Parsis of whole of Pakistan are not entitled to any seat but the Committee considers it desirable to provide them with one seat each. Similarly the Buddhists and others in the whole of Pakistan and the Scheduled Castes of Sind are entitled to one seat each, but they have been allotted two seats each.

(2) A person shall be entitled to vote at an election for a constituency if his name is included in the electoral roll for that constituency :

Provided that if his name is included in the electoral rolls of two or more constituencies he shall not vote at a general election in more than one constituency and if he votes in more than one constituency all his votes shall be void.

77. (1) A person shall be entitled to be an elector in a constituency if— Qualifications of electors.

- (a) he is a citizen ;
- (b) he has attained the age of twenty-one years on or before the 1st of January in any year ;
- (c) he is resident in the constituency ;
- (d) he is a member of the community to which the constituency is allocated ; and
- (e) he is not subject to any disqualification mentioned in the First Schedule.

(2) For the purposes of this Article, the term "resident" has the meaning assigned to it in the First Schedule.

78. If any question arises whether a member of either House of Parliament has, after his election, become subject to any disqualification, the Chancellor or the Speaker, as the case may be, shall obtain the opinion of the Election Commission and if the opinion is that the member has incurred any disqualification, his seat shall be declared vacant by the Chancellor or the Speaker, as the case may be. Decisions on questions as to disqualifications of members.

79. If any member of either House of Parliament is absent from that House, without leave of the House, for sixty consecutive sitting days his seat shall become vacant. Vacation of seats.

80. If any person sits or votes in either House of Parliament knowing that he is not qualified for or is disqualified from membership of that House he shall be liable in respect of every day on which he so sits or votes to a penalty of five hundred rupees, which may be recovered from him as a debt due to the Federation. Penalty for sitting and voting in Parliament when not qualified or disqualified.

81. (1) Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or a person authorised by him, an oath of allegiance to Pakistan in the form set out in the First Schedule. Oaths of members of Parliament.

(2) If a member of either House of Parliament fails to take the oath within a period of six months from the date of the first meeting of that House after his election, his seat shall become vacant :

Provided that the Chancellor or the Speaker, as the case may be, may, before the expiry of the said period of six months, extend that period on good cause being shown.

82. (1) No person shall be at the same time a member of—

- (a) both Houses of Parliament ; or
- (b) either House of Parliament and a Legislative Assembly ; or
- (c) two or more Legislative Assemblies ; or
- (d) either House of Parliament or a Legislative Assembly in respect of more than one constituency.

Bar against double membership.

(2) Nothing in clause (1) shall prevent a person from being a candidate for two or more seats at the same time, whether in the same or a different body, but if he is elected for two such seats he shall, within thirty days after the declaration of the result for the second such seat, resign one of those seats, and if he does not, both seats shall become vacant at the end of thirty days.

*Explanation I.*—This clause shall operate continuously; that is to say, if a person is a candidate for more than two seats at the same time, he has to make a choice within thirty days after being elected to the second seat, a second choice after being elected to the third seat, and so forth. If he is elected to two or more seats on the same day, he must choose among all the seats to which he has been elected within thirty days.

*Explanation II.*—Under clause (1) no member may sit in respect of any seat so long as he holds two or more seats, even when under clause (2) he is allowed thirty days in which to make a choice.

(3) Subject to clause (2), if a member of either House of Parliament or of a Legislative Assembly becomes a candidate for a second seat which, in accordance with clause (1), he may not hold concurrently with his first seat—

- (a) if the second seat is in the same House or Assembly, the first seat shall become vacant as soon as he is nominated for election to the second seat;
- (b) if the second seat is in a different House or Assembly, his first seat shall become vacant as soon as he is elected to the second seat.

Casual vacancies.

83. (1) There shall be a casual vacancy in the Senate or the House of Representatives if—

- (a) a member dies; or
- (b) a member resigns his seat by writing addressed to the Chancellor or the Speaker, as the case may be; or
- (c) the seat of a member becomes otherwise vacant under the Constitution.

(2) When a casual vacancy occurs the Chancellor or the Speaker, as the case may be, shall issue public notification thereof and thereupon it shall be the duty of the Election Commission to take steps to fill the vacancy as soon as possible, but not later than six months after the date of the notification.

Salaries and allowances of members of Parliament.

84. Members of the Senate and the House of Representatives shall be entitled to receive such salaries and allowances as may be provided by Act of Parliament.

## CHAPTER IV—MEETINGS AND PROCEDURE OF PARLIAMENT

85. (1) Subject to the provisions of the Constitution, the powers to summon, prorogue and dissolve Parliament shall vest in the President and while summoning Parliament the President shall fix the time and place of the meeting. Power to summon, prorogue and dissolve Parliament.

(2) If at any time the President considers that a Government which has the confidence of Parliament cannot be formed he may dissolve Parliament in his discretion.

(3) The President shall not be bound to dissolve Parliament on the advice of a Prime Minister whose Cabinet has not secured a vote of confidence under Article 63.

(4) Unless sooner dissolved by the President, Parliament shall stand dissolved on the expiry of five years from the date of its first meeting.

(5) The President shall issue public notification of a dissolution of Parliament and shall include therein a notice of the date of the general election; and thereupon it shall be the duty of the Election Commission to take steps to complete a general election as soon as possible and in any case within six months from the date of the notification.

*Explanation.*—A general election shall be deemed to be completed for the purpose of this clause notwithstanding that in one or more constituencies the election is postponed beyond six months owing to the death of a candidate or candidates or any other cause.

86. There shall be not less than two sessions in each year of the life of a Parliament and during every such year Parliament shall be in session for at least six months. Unless a Joint Sitting otherwise decides, one session in every such year shall be held at Dacca. Sessions of Parliament.

*Procedure in Legislative matters*

87. (1) A Bill may originate in either House of Parliament but shall not be presented for the President's assent until it has been passed by both Houses. Legislative procedure.

(2) If a Bill passed by the first House and submitted to the second House—

(a) is rejected by the second House; or

(b) is not passed by that House within ninety days from the date on which it was submitted to the second House, excluding any period during which Parliament is not in session; or

(c) is passed by the second House with any amendment which the first House refuses to accept;

it shall be submitted to a Joint Sitting.

*Explanation.*—“The first House” means the House in which the Bill originated; and “The second House” means the other House.

(3) When a Bill is submitted to a Joint Sitting the Bill or any amendment thereto shall be deemed to have been passed by both Houses if it is passed in the Joint Sitting by a majority which includes thirty per cent. of the members from the Eastern Region present and voting and thirty per cent. of the members from the Western Region present and voting.

(4) This Article shall not apply to a Money Bill or to a Bill to amend the Constitution.



Assent to Bills.

88. (1) A Bill which has been passed by both Houses shall be presented to the President who shall within ninety days declare—

- (a) that he assents thereto or withholds his assent, or
- (b) return the Bill to Parliament with a message requesting that the Bill or any specified provision thereof be reconsidered, and in particular that any amendments suggested by him be considered.

(2) If a Bill is returned to Parliament in accordance with clause (1), it shall be reconsidered by both Houses and if it is again presented to the President, with or without amendment, the President shall assent thereto.

(3) A Bill which has received the President's assent shall become law.

(4) This Article shall not apply to a Money Bill or to a Bill to amend the Constitution.

Joint resolution.

89. (1) A joint resolution may originate in either House of Parliament.

(2) Clauses (2) and (3) of Article 87 shall apply to a joint resolution as they apply to a Bill.

#### *Procedure in Financial Matters*

Money Bills.

90. (1) In this Part a "Money Bill" means a Bill containing provisions dealing with all or any of the following matters, that is to say—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money or the giving of any guarantee by the Government of the Federation, or the amendment of the law relating to the financial obligations of that Government;
- (c) the custody of the Federal Consolidated Fund, including the Federal Contingency Fund, the payment of moneys into or the issue or appropriation of moneys from such Fund;
- (d) the imposition of a charge upon the Federal Consolidated Fund, or the abolition or alteration of any such charge;
- (e) the receipt of moneys on account of the Federal Consolidated Fund or the public account of the Federation or the custody or issue of such moneys or the audit of the accounts of the Government of the Federation or of a Province; and
- (f) any matter incidental to any of the matters specified in this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that—

- (a) it provides for the imposition or alteration of any fine or other pecuniary penalty, or for the demand or payment of a licence fee or a fee or charge for any service rendered; or
- (b) it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) Notwithstanding anything in clause (1), a Bill shall not be deemed to be a Money Bill if it contains any provision for the amendment of the Constitution.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of Representatives thereon shall be final.

(5) There shall be endorsed on every Money Bill when it is transmitted to the Senate and when it is presented to the President for his assent, the certificate of the Speaker of the House of Representatives that it is a Money Bill.

91. (1) A Money Bill shall be introduced in the House of Representatives but shall not be presented for the President's assent until it has been passed by both Houses. Procedure relating to Money Bills.

(2) A Money Bill, or any resolution or amendment relating to any of the matters specified in clause (1) of Article 90, shall not be introduced or moved in either House of Parliament except on the recommendation of the President.

(3) If a Money Bill is passed by the House of Representatives and is submitted to the Senate not less than thirty days before the end of the session but—

(a) is rejected by the Senate; or

(b) is not passed by the Senate within thirty days of its being submitted to it; or

(c) is passed with any amendment which the House of Representatives refuses to accept,

it shall be submitted to a Joint Sitting in the form in which it was passed by the House of Representatives.

(4) If at the Joint Sitting the Money Bill is passed by a majority which includes at least thirty per cent. of the members from the Eastern Region present and voting and at least thirty per cent. of the members from the Western Region present and voting, it shall be deemed to have been passed by both Houses, and any amendment moved in the Joint Sitting shall not be deemed to have been carried unless it is supported by a like majority.

(5) A Money Bill, which has been passed by both Houses, shall be submitted to the President, who shall declare that he assents thereto or that he withholds his assent and when assented to it shall become law.

\*92. No taxation shall be levied for the purposes of the Federation except by or under the authority of an Act of Parliament. Taxation to be under the authority of Parliament.

\*\*93. (1) Subject to the provisions of the Constitution relating to the assignment of the whole or part of the net proceeds of certain taxes and duties to Provinces, all revenues received by the Government of the Federation, all loans raised by that Government and all moneys received by it in the repayment of any loan, shall be paid into one consolidated fund, in the Constitution referred to as the "Federal Consolidated Fund". Federal Consolidated Fund and the Public Account of the Federation.

(2) All other public moneys received by or on behalf of the Government of the Federation shall be credited to the public account of the Federation.

(3) No money shall be withdrawn from the Federal Consolidated Fund except under the authority of the Constitution or an Act of Parliament.

\*The Committee is of the opinion that that Parliament should have full control over federal finances and no Federal law should be imposed except under or by an Act of the Parliament. This article has been included for this purpose though there is no decision of the Constituent Assembly to that effect.

\*\*The Committee is of the opinion that greater financial control will be secured through Federal Consolidated Fund and this scheme has therefore been adopted.

Federal  
Contingency  
Fund.

94. (1) Notwithstanding anything in this Part, Parliament may by law establish a Federal Contingency Fund in order to enable the President to make advances for the meeting of unforeseen expenditure pending authorisation of Parliament in accordance with the Constitution.

(2) There shall be issued to the Federal Contingency Fund out of the Federal Consolidated Fund such sums as may from time to time be authorised by Act of Parliament.

Custody of  
public  
moneys.

95. (1) The custody of the Federal Consolidated Fund, including the Federal Contingency Fund, the payment of moneys into such Fund, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Fund received by or on behalf of the Government of the Federation, their payment into the public account of the Federation and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid, shall be regulated by Act of Parliament, and, until provision in that behalf is so made, shall be regulated by rules made by the President.

(2) All moneys received by or deposited with—

(a) any officer employed in connection with the affairs of the Federation in his capacity as such, other than revenues or public moneys raised or received by the Government of the Federation; and

(b) any court of law to the credit of any cause, matter, amount or person in connection with the affairs of the Federation;

shall be paid into the public account of the Federation.

Annual  
Financial  
Statement.

96. (1) Before the beginning of each financial year the President shall cause to be laid before the House of Representatives a statement (in this Part referred to as "the Annual Financial Statement") of the estimated receipts and expenditure of the Government of the Federation during that financial year.

(2) The Annual Financial Statement shall show separately—

(a) the sums required to meet expenditure which is charged upon the Federal Consolidated Fund; and

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

and shall distinguish expenditure to be met from revenue account from other expenditure.

(3) There shall be charged upon the Federal Consolidated Fund—

(a) the salary, allowances and pensions payable to or in respect of the President and other expenditure relating to his office;

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

(c) the administrative expenses of the Supreme Court including the salaries, allowances and pensions payable to and in respect of the officers and servants of that Court;

- (d) the salary, allowances and pensions payable to and in respect of the Comptroller and Auditor-General and the administrative expenses of his Department, including the salaries, allowances and pensions payable to and in respect of the officers and servants of that Department ;
- (e) the salaries, allowances and pensions payable to and in respect of the Election Commission and Regional Election Commissioners and the administrative expenses of the Election Commission ;
- (f) all debt charges for which the Federal Government is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans and the service and redemption of debt on the security of the Federal Consolidated Fund ;
- (g) any sum required to satisfy any judgment, decree or award against the Federation by any court or tribunal ;
- (h) any sum required by the President to defray expenditure in respect of functions exercised by him in his discretion ; and
- (k) any other sums declared by this Constitution or by any Act of Parliament to be charged upon the Federal Consolidated Fund.

(4) Nothing in this Constitution shall forbid the authorisation of expenditure by votes of credit whenever in the opinion of the President the requirements of national defence make it necessary to do so ; and in any such case it shall not be necessary to submit detailed estimates of income and expenditure. Such vote of credit may be in the form of a token vote.

97. (1) So much of the Annual Financial Statement as relates to expenditure charged upon the Federal Consolidated Fund may be discussed but shall not be voted upon by either House of Parliament and the amount authorised by this Constitution to be expended shall be the amount specified in the Annual Financial Statement.

Procedure relating to the Annual Financial Statement.

(2) So much of the Annual Financial Statement as relates to other expenditure shall be submitted to the House of Representatives in the form of demands for grants, and that House may assent, or refuse to assent, to any demand, or assent to any demand subject to a reduction of the amount specified therein.

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

98. (1) The Annual Financial Statement as approved by the House of Representatives shall be submitted to the Senate.

Powers of the Senate with regard to the Annual Financial Statement and of the Joint Sittings in case of a conflict.

(2) The Senate shall have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein, or when a demand has been refused or reduced by the House of Representatives, to restore it, in whole or in part.

(3) If the two Houses disagree with respect to any demand the President shall summon a Joint Sitting for the purpose of discussing and voting on that demand and the decision of the majority of the members present and voting shall be deemed to be the decision of the two Houses if that majority includes at least thirty per cent. of the members from the Eastern Region present and voting and at least thirty per cent. of the members from the Western Region present and voting.

Appropriation Bill.

\*99. (1) After the Annual Financial Statement has been approved by both Houses there shall be introduced in the House of Representatives a Bill incorporating the grants voted by Parliament under Articles 97 and 98.

(2) No amendment to any such Bill shall be proposed in either House which will have the effect of varying the amount or altering the destination of any grant so made.

(3) Subject to the provisions of the Constitution, no money shall be withdrawn from the Federal Consolidated Fund except under appropriation made in accordance with this Article.

Supplementary Financial Statement.

100. (1) If in respect of any financial year the President considers that the amount authorised to be expended for a particular service is likely to prove insufficient, or that a need has arisen for expenditure upon some service not included in the Annual Financial Statement for that year, he shall cause to be laid before the House of Representatives a Supplementary Financial Statement.

(2) The provisions of this Part shall apply to a Supplementary Financial Statement as they apply to an Annual Financial Statement.

Statement of excess expenditure.

101. (1) If in respect of any financial year it is found that the expenditure authorised by or under the Constitution to be expended on any service has been exceeded, the President shall cause to be laid before the House of Representatives a Statement of Excess Expenditure in respect of every such service, setting out the amount of the excess expenditure and the reasons therefor.

(2) The provisions of this Part shall apply to a Statement of Excess Expenditure as they apply to an Annual Financial Statement.

Votes on account, Votes of credit and exceptional grants.

102. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament shall have power—

(a) to make any grant in advance in respect of the estimated expenditure of any financial year pending the completion of the procedure prescribed by Articles 96 to 99;

(b) to make a grant for meeting expenditure which on account of the magnitude or the indefinite character of the service cannot be specified in the detail ordinarily provided in an Annual Financial Statement;

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

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

Borrowing by the Federation.

103. The executive authority of the Federation shall extend to borrowing upon the security of the Federal Consolidated Fund within such limits, if any, as may from time to time be determined by Act of Parliament and to the giving of guarantees within such limits, if any, as may be so determined.

#### Joint Sittings

Resolutions of confidence or want of confidence.

104. (1) Any resolution expressing confidence or want of confidence in the Government shall be moved only in a Joint Sitting. Notice of motion for this purpose shall be given to the Chancellor, who shall forward it to the President, and, a Joint Sitting for the purpose of considering it shall be summoned within thirty days from the date of its receipt by the President.

\*Note to Article 99.—The Committee considers it desirable to provide for Appropriation Bill instead of Authentication of the Schedule of Expenditure by the President.

(2) A motion expressing confidence or want of confidence shall not be deemed to have been carried unless it is supported by a majority which includes at least thirty per cent. of the total number of members from the Eastern Region and at least thirty per cent. of the total number of members from the Western Region.

105. (1) A Joint Sitting shall be summoned by the President except as provided in Article 48. Summoning of and presiding at the Joint Sittings.

(2) At a Joint Sitting the Chancellor or, in his absence, the Speaker of the House of Representatives, shall preside and if neither is present, the Chairman shall be selected in accordance with Standing Orders of the Joint Sitting.

#### *Other Provisions relating to Parliament*

106. (1) A Minister, a Deputy Minister or a Parliamentary Secretary may address either House of Parliament but he shall not be entitled to vote except in the House of which he is a member. Rights of Ministers, etc., and Advocate-General to address either House.

(2) The Advocate-General of the Federation may address either House but shall not be entitled to vote therein.

107. Subject to the provisions of the Constitution—

- (1) The procedure of each House of Parliament shall be regulated by Standing Orders framed by that House. Standing orders, quorum, etc.
- (2) The procedure of a Joint Sitting shall be regulated by Standing Orders framed by a Joint Sitting.
- (3) A decision in either House or in a Joint Sitting shall be taken by a majority of those present and voting. The person presiding shall not vote except when there is an equality of votes, in which case he shall exercise a casting vote.
- (4) A decision in either House or in a Joint Sitting shall be valid notwithstanding that there are vacancies or that a person disqualified from voting has sat or voted.
- (5) The quorum in the House of Representatives shall be forty-three, in the Senate seven, and in a Joint Sitting fifty.

108. (1) The Senate shall elect from among its members a Chancellor and a Deputy Chancellor. Chancellor and Deputy Chancellor.

(2) While the office of Chancellor is vacant, the Deputy Chancellor shall subject to Articles 105 and 110 exercise the functions of the Chancellor.

(3) If the offices of Chancellor and Deputy Chancellor are both vacant, the President shall appoint a person to exercise the functions of the Chancellor pending the filling of either office by the Senate.

(4) The Chancellor shall preside at a meeting of the Senate if he is present; and in his absence the Deputy Chancellor if present shall preside:

Provided that while a motion for the removal of the Chancellor or the Deputy Chancellor is under discussion the Chancellor or the Deputy Chancellor, as the case may be, shall not preside, but shall have the right to take part in the proceedings of the Senate including the right to vote.

(5) In the absence of a person authorised to preside under the foregoing provisions of this Article, the person authorised to preside may be determined by the Standing Orders of the Senate; and if there is no such person the Senate may elect a person to preside at that meeting.

(6) The office of Chancellor or Deputy Chancellor shall become vacant if—

- (a) he dies; or
- (b) he ceases to be a member of the Senate; or
- (c) he resigns by writing addressed to the President; or
- (d) a resolution for his removal is passed in the Senate by a majority of the total number of members of the Senate: provided that at least fourteen days' notice of such resolution has been given to the Senate:

Provided that, on a dissolution of Parliament the Chancellor and the Deputy Chancellor shall remain in office until immediately before the first meeting of Parliament after the dissolution.

Speaker and Deputy Speaker of the House of Representatives.

109. (1) The House of Representatives shall elect from among its members a Speaker and a Deputy Speaker.

(2) While the office of Speaker is vacant, the Deputy Speaker shall, subject to Articles 105 and 110, exercise the functions of the Speaker.

(3) If the offices of Speaker and Deputy Speaker are both vacant, the President shall appoint a person to exercise the functions of the Speaker pending the filling of either office by the House of Representatives.

(4) The Speaker shall preside at a meeting of the House of Representatives if he is present and in his absence the Deputy Speaker if present shall preside:

Provided that while a motion for the removal of the Speaker or the Deputy Speaker is under discussion the Speaker or the Deputy Speaker, as the case may be, shall not preside, but shall have the right to take part in the proceedings of the House of Representatives including the right to vote.

(5) In the absence of a person authorised to preside under the foregoing provisions of this Article, the person authorised to preside may be determined by the Standing Orders of the House of Representatives; and if there is no such person the House may elect a person to preside at that meeting.

(6) The office of Speaker or Deputy Speaker shall become vacant if—

- (a) he dies; or
- (b) he ceases to be a member of the House of Representatives; or
- (c) he resigns by writing addressed to the President; or
- (d) a resolution for his removal is passed by the House of Representatives by a majority of the total number of members of the House of Representatives: provided that at least fourteen days' notice of such resolution has been given to the House:

Provided that on a dissolution of Parliament the Speaker and the Deputy Speaker shall remain in office until immediately before the first meeting of Parliament after the dissolution.

110. Nothing in Article 108 or Article 109 shall authorise the Deputy Chancellor or the Deputy Speaker to act as President under Article 47. Deputy Chancellor and Deputy Speaker not to act as President.

111. There shall be paid to the Chancellor and the Deputy Chancellor and the Speaker and the Deputy Speaker such salaries and allowances as may be provided by Act of Parliament: Salaries and allowances of the Chancellor and Deputy Chancellor, Speaker and Deputy Speaker.

Provided that, after they have been determined by Act of Parliament, the salary and allowances payable to a person under this Article shall not be varied to his disadvantage during his tenure of office.

112. (1) The validity of any proceedings in either House of Parliament or in a Joint Sitting shall not be questioned in any court. Exclusion of the jurisdiction of courts from matters pertaining to Parliamentary proceedings, and acts of officers of Parliament.

(2) No officer or member of either House of Parliament in whom powers are vested by or under this Constitution for the regulation of procedure or the conduct of business or the maintenance of order in that House or in a Joint Sitting shall, in relation to the exercise by him of any of these powers, be subject to the jurisdiction of any court.

(3) No member of either House of Parliament and no person authorised to speak in either House shall be liable to any proceeding in any court in respect of anything said or any vote given by him in that House or any committee thereof or in any Joint Sitting.

(4) No person shall be liable to any proceeding in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, vote or proceedings.



## PART VI

## The Provinces

## CHAPTER I—THE GOVERNOR

The  
Governor.

\*113. (1) There shall be a Governor for each province who shall be appointed by the President by warrant under his hand and seal and shall hold office during the President's pleasure.

(2) Where in the opinion of the President the Governor is temporarily unable to exercise the functions of his office, the President may appoint a person to exercise those functions.

(3) The Governor may resign his office by writing addressed to the President.

Executive  
powers of  
the  
Governor.

114. (1) The executive authority of a Province shall vest in the Governor and shall be exercised by him in accordance with the Constitution and with law.

(2) Except where it is expressly so provided in the Constitution or in any law that he shall exercise a function in his discretion, the Governor shall act in accordance with the advice of the appropriate Minister or Ministers.

(3) Where the Governor is required to act in his discretion he shall be under the general control of and comply with such particular directions, if any, as may from time to time be given to him, by the President.

(4) The question whether any, and if so what, advice has been tendered by a Minister to the Governor shall not be enquired into in any court.

(5) Nothing in this Article shall affect the validity of any law vesting powers in or imposing duties upon any Minister, board, commission or other authority.

Oath of the  
Governor.

115. Before the Governor assumes office he shall make and subscribe before the President or some person authorised by him an oath in the form set out in the First Schedule.

Exercise  
of the  
Governor's  
powers.

116. (1) All executive actions of the Government of a Province shall be expressed to be taken in the name of the Governor.

(2) The Governor shall make rules specifying the manner in which orders and other instruments made and executed in his name shall be authenticated and the validity of an order or instrument which is so authenticated shall not be questioned on the ground that it is not made or executed by the Governor.

(3) The Governor shall also make rules for the allocation and transaction of the business of the Government of the Province. Such rules may require Ministers, Deputy Ministers, Parliamentary Secretaries and officers of the Government to transmit to the Governor such information as may be specified, and in particular shall require that all decisions of the Cabinet, proposals for legislation and other important proposals are brought to his notice.

Salaries and  
allowances  
of the  
Governor.

117. The Governor's salary, allowances and privileges shall be determined by Act of Parliament, but shall not be varied to his disadvantage during his tenure of office.

\*The Committee is of the view that the term of office of the Governor need not be specified in the Constitution because he is to hold office during the President's pleasure. The Committee hopes that in due course a convention would grow settling the period for which a Governor should normally hold office.

**118.** Subject to the provisions of the Constitution the executive authority of a Province shall extend to all matters with respect to which the Legislative Assembly has power to make laws :

Extent of the executive authority of the Provinces.

Provided that where a matter is also within the legislative authority of Parliament, the executive authority of the Province shall be subject to and limited by the executive authority expressly conferred by the Constitution or by any Act of Parliament upon the Government of the Federation or any authority thereof.

**119.** (1) Notwithstanding the provisions of Clause (1) of Article 113, the Rulers of the States of Bahawalpur and Khairpur shall be Governors of those Provinces respectively and shall be so designated while exercising the functions of those offices.

(2) If the Ruler of the State of Bahawalpur or the State of Khairpur resigns the office of Governor in accordance with Clause (3) of Article 113, he shall not merely on that ground cease to be Ruler.

(3) Notwithstanding anything in Clause (1) if the Ruler resigns the office of Governor, or if the President considers that, on account of minority or of infirmity of body or mind the Ruler should not be the Governor of the Province, the President shall appoint a Governor in accordance with this Part.

(4) While the Ruler is Governor of the Province, Article 115 shall not apply.

#### CHAPTER II—THE PROVINCIAL MINISTRY

**120.** (1) There shall be a Cabinet, with the Chief Minister at its head, to aid and advise the Governor in the exercise of his functions.

The Cabinet.

(2) All the Ministers shall be members of the Cabinet.

(3) After every general election a new Cabinet shall be constituted.

**121.** (1) The Cabinet shall be collectively responsible to the Legislative Assembly.

Collective responsibility of the Cabinet.

(2) As soon as possible after a new Cabinet has been constituted it shall seek a vote of confidence in the Legislative Assembly, and no Minister, Deputy Minister or Parliamentary Secretary shall remain in office after a period of two months from the date on which the Chief Minister assumes office, unless such a vote of confidence has been secured, or unless there is a dissolution of the Legislative Assembly within the said period, or unless the new Cabinet is constituted during a dissolution but before the ensuing general election.

(3) If at any time a vote of want of confidence in the Government is passed by the Legislative Assembly, the Ministers, Deputy Ministers and Parliamentary Secretaries shall tender their resignations, which shall be accepted as soon as possible.

**122.** (1) The Governor shall in his discretion appoint as Chief Minister a person who is in his opinion able to secure a vote of confidence under clause (2) of Article 121.

Appointment and resignation of the Chief Minister.

(2) The Chief Minister may resign by writing addressed to the Governor, but the resignation shall not take effect until it has been accepted by the Governor in his discretion.

**123.** Nothing in this Part shall prevent the Governor from making such arrangements as the Chief Minister may advise for the performance of any of the Chief Minister's functions which he is temporarily unable to perform, and such functions may include the chairmanship of the Cabinet.

Arrangements for the temporary performance of the functions of Chief Minister.

Ministers,  
Deputy  
Ministers  
and Parlia-  
mentary  
Secretaries.

**124.** (1) A Minister (other than the Chief Minister), Deputy Minister or Parliamentary Secretary—

- (a) shall be appointed by the Governor and shall cease to hold office if the Governor so requires ;
- (b) may resign by writing addressed to the Governor ; and
- (c) shall cease to hold office when the office of Chief Minister becomes vacant :

Provided that if the office of Chief Minister becomes vacant owing to his death or inability to perform his duties, a Minister, Deputy Minister or Parliamentary Secretary may remain in office until the new Chief Minister is appointed.

(2) One of the Ministers shall be charged with the subject of Minority Affairs ; among his duties shall be that of protecting the interests of minorities and ensuring the observance of the safeguards provided for minorities in the Constitution.

Only  
members of  
the Legisla-  
tive Assemb-  
ly to be  
Ministers.

**125.** (1) No person shall be appointed Minister, Deputy Minister or Parliamentary Secretary unless he is at the time of his appointment a member of the Legislative Assembly.

(2) Except during the interval between the dissolution of the Legislative Assembly and the first meeting of the new Legislative Assembly, a Minister, Deputy Minister or Parliamentary Secretary shall cease to hold office as such if he ceases to be member of the Legislative Assembly.

Oaths of  
Ministers,  
Deputy  
Ministers  
and Parlia-  
mentary  
Secretaries.

**126.** Before a Minister, Deputy Minister, or Parliamentary Secretary assumes office he shall make and subscribe before the Governor or some person authorised by him an oath in the form set out in the First Schedule.

Salaries and  
allowances  
of Ministers,  
Deputy  
Ministers  
and Parlia-  
mentary  
Secretaries.

**127.** A Minister, Deputy Minister or Parliamentary Secretary shall be entitled to such salary and allowances as may be determined by Act of the Legislative Assembly :

Provided that after they have been determined by Act of the Legislative Assembly, the salary and allowances payable to a person under this Article shall not be varied to his disadvantage during his tenure of office.

Governor's  
messages to  
Legislative  
Assembly.

**128.** The Governor may send a message to the Legislative Assembly, and the Assembly shall consider it with all convenient despatch.

Power of  
the Governor  
to pro-  
mulgate  
Ordinances.

**129.** (1) The Governor may, in cases of emergency and while the Legislative Assembly is not sitting, make and promulgate ordinances for the peace and good government of the Province or any part thereof, and any ordinance so made shall have the like force of law as an Act of the Legislative Assembly, but the power of making ordinances under this Article shall be subject to the like restriction as the power of the Legislative Assembly to make laws, and any ordinance made under this Article may be controlled or superseded by any such Act.

(2) Notwithstanding any restriction imposed by clause (1), an ordinance made under this Article may authorise expenditure from the Provincial Consolidated Fund.

(3) An ordinance promulgated under this Article shall be laid before the Legislative Assembly and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislative Assembly, or on the passing by the Assembly, of a resolution disapproving it before that period has expired.

130. (1) The Governor Shall appoint an Advocate-General for the Province. Advocate-General for the Province.

(2) A person shall be qualified for appointment under this Article if he is qualified to be appointed a Judge of the High Court :

Provided that the age-limit applicable to a Judge of the High Court shall not apply to the Advocate-General.

(3) The Advocate-General for a Province shall hold office during the Governor's pleasure and shall receive such remuneration as may be determined by Act of the Legislative Assembly.

#### CHAPTER III—THE COMPOSITION OF THE LEGISLATIVE ASSEMBLY

\*131. (1) There shall be in each Province a Legislative Assembly whose composition shall be determined by Act of Parliament or, until it is so determined, by the First Schedule. Constitution of the Legislative Assembly.

(2) The said Act of Parliament shall determine—

- (i) the total number of constituencies in the Province, each of which shall be a single-member territorial constituency ;
- (ii) the distribution of those constituencies among the various communities, as nearly as practicable on the basis of population, each constituency of a particular community having as nearly as possible an equal number of electors ; and
- (iii) the number of additional constituencies to be designated for women for two terms of the Legislative Assembly or a period of ten years from Constitution Day whichever is the longer ;

and the said Act may contain such incidental and consequential provisions as may appear to be necessary.

(3) There shall be a redistribution of constituencies by Act of Parliament after a census, if it appears that the proportionate distribution of population among the various constituencies and communities has been substantially changed.

132. (1) There shall be an electoral roll for each constituency represented in the Legislative Assembly which shall be revised annually, and the electoral roll so revised shall come into operation in each year on such date as may be fixed by the Election Commission. Provincial electoral rolls.

(2) A person shall be entitled to vote at an election for a constituency if his name is included in the electoral roll for that constituency :

Provided that if his name is included in the electoral rolls of two or more constituencies he shall not vote at a general election in more than one constituency, and if he does vote in more than one constituency, all his votes shall be void.

133. (1) A person shall be entitled to be an elector in a constituency if— Qualifications of electors.

- (a) he is a citizen ;

\*In the absence of any specific decision of the Constituent Assembly on the composition of the Provincial Legislative Assemblies the number of seats shown in the Schedule are on the following basis :—

- (1) In the case of existing Provinces, the number of the members of the Legislative Assemblies are as at present provided in the Government of India Act, 1935 (as adopted in Pakistan).
- (2) In the case of the States of Bahawalpur and Khairpur, the number of members of their Legislative Assemblies are as provided in their respective Constitutions.
- (3) In the case of Baluchistan Province, the number of members of the Legislative Assembly are, as recommended in the Report of Baluchistan Administrative Reforms Committee.

- (b) he has attained the age of twenty-one years on or before the first day of January in any year ;
- (c) he is resident in the constituency ;
- (d) he is a member of the community to which the constituency is allocated ; and
- (e) he is not subject to any disqualification prescribed by the First Schedule.

(2) For the purposes of this Article, the term "resident" has the meaning assigned to it in the First Schedule.

Decision of questions as to disqualification of a member.

134. If any question arises whether a member of a Legislative Assembly has after his election become subject to any disqualification, the Speaker of the Legislative Assembly shall obtain the opinion of the Election Commission, and if the opinion is that the member has incurred any disqualification, his seat shall be declared vacant by the Speaker.

Vacation of seats in the Legislative Assembly.

135. If any member of a Legislative Assembly is absent from it without leave of the Assembly for sixty consecutive sitting days, his seat shall be declared vacant by the Speaker.

Oaths of members of the Legislative Assembly.

136. Every member of a Legislative Assembly shall, before taking his seat, make and subscribe before the Governor or a person authorised by him, an oath of allegiance to Pakistan in the form set out in the First Schedule.

Penalty for sitting and voting in the Legislative Assembly by a person not qualified.

137. (1) If any person sits or votes in a Legislative Assembly knowing that he is not qualified for or is disqualified from membership, he shall be liable in respect of every day on which he so sits and votes to a penalty of five hundred rupees, which may be recovered from him as a debt due to the Province.

(2) If a member of the Legislative Assembly fails to take the oath prescribed by the First Schedule within six months from the date of the first meeting of the Assembly after his election, his seat shall become vacant :

Provided that the Speaker may, before the expiry of the said period of six months, extend that period on good cause being shown.

Casual vacancies in the Legislative Assembly.

138. (1) There shall be a casual vacancy in the Legislative Assembly if—

- (a) a member dies ; or
- (b) a member resigns his seat by writing addressed to the Speaker of the Legislative Assembly ; or
- (c) the seat of a member otherwise becomes vacant under the Constitution.

(2) When a casual vacancy occurs the Speaker shall issue public notification thereof, and thereupon it shall be the duty of the Election Commission to take steps for the filling of the vacancy as soon as possible, but not later than six months after the date of the notification.

Salaries and allowances of the members of the Legislative Assembly.

139. Members of a Legislative Assembly shall be entitled to receive such salaries and allowances as may be provided by Act of the Legislative Assembly.

## CHAPTER IV—MEETINGS AND PROCEDURE OF THE LEGISLATIVE ASSEMBLY

140. (1) Subject to the provisions of the Constitution, the power to summon, prorogue and dissolve a Legislative Assembly shall vest in the Governor and while summoning the Assembly the Governor shall fix the time and place of the meeting.

Power to summon, prorogue and dissolve the Legislative Assembly.

(2) If at any time the Governor considers that a Government which has the confidence of the Legislative Assembly cannot be formed, he may dissolve the Legislative Assembly in his discretion.

(3) The Governor shall not be bound to dissolve the Legislative Assembly on the advice of a Chief Minister whose Cabinet has not secured a vote of confidence under clause (2) of Article 121.

(4) Unless sooner dissolved by the Governor, a Legislative Assembly shall stand dissolved on the expiry of five years from its first meeting.

(5) The Governor shall issue public notification of the dissolution of the Legislative Assembly, and thereupon it shall be the duty of the Election Commission to take steps to complete a general election as soon as possible and in any case within six months from the date of the notification.

*Explanation.*—A general election shall be deemed to be completed for the purpose of this clause notwithstanding that in one or more constituencies the election is postponed beyond six months owing to the death of a candidate or candidates or any other cause.

141. (1) There shall be not less than two sessions in each year of the life of a Legislative Assembly and the period between the end of one session and the beginning of the next session shall not exceed six months.

Sessions of the Legislative Assembly.

(2) There shall be a session of the Legislative Assembly within two months after the appointment of a Chief Minister.

142. The Advocate-General of a Province may address the Legislative Assembly but shall not be entitled to vote therein.

Right of the Advocate-General for the Province to address the Legislative Assembly.

143. (1) A Bill which has been passed by a Legislative Assembly shall be presented to the Governor who shall, within ninety days—

Assent to Bills.

(a) declare that he assents thereto or that he withholds his assent ; or

(b) reserve the Bill for the consideration of the President ; or

(c) if the Bill is not a Money Bill, return the Bill to the Legislative Assembly with a message requesting that the Bill or any specified provision thereof be reconsidered, and in particular that any specific amendments suggested by him be considered.

(2) The Governor shall reserve for the consideration of the President any Bill which would, in his opinion, so derogate from the powers of the High Court as to endanger the position which that Court is, by this Constitution, designed to fill.

(3) If a Bill is reserved for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds his assent.

(4) If a Bill is returned to the Legislative Assembly in accordance with paragraph (c) of clause (1), it shall be reconsidered by the Legislative Assembly ; and if it is again presented to the Governor, with or without amendment, the Governor shall assent thereto.

(5) A Bill which has been assented to by the Governor or by the President, in accordance with this Article, shall become law.

*Procedure in Financial Matters*

Money Bills.

144. (1) In this Part a "Money Bill" means a Bill containing provisions dealing with all or any of the following matters, that is to say,—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money or the giving of any guarantee by the Government of the Province, or the amendment of the law relating to the financial obligations of that Government;
- (c) the custody of the Provincial Consolidated Fund including the Provincial Contingency Fund, the payment of moneys into or the issue or appropriation of moneys from such Fund;
- (d) the imposition of a charge upon the Provincial Consolidated Fund, or the abolition or alteration of any such charge;
- (e) the receipt of moneys on account of the Provincial Consolidated Fund or the public account of the Province or the custody or issue of such moneys or the audit of the accounts of the Government of the Province; and
- (f) any matter incidental to any of the matters specified in this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that—

- (a) it provides for the imposition or alteration of any fine or other pecuniary penalty, or for the demand or payment of a licence fee or a fee or charge for any service rendered; or
- (b) it provides for the imposition, abolition, remission, alteration, or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the Legislative Assembly thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is presented to the Governor for his assent the certificate of the Speaker of the Legislative Assembly that it is a Money Bill.

Money Bills, etc., to be introduced only on the recommendation of the Governor.

145. A Money Bill, or any resolution or amendment relating to any of the matters specified in clause (1) of Article 144, shall not be introduced or moved in a Legislative Assembly except on the recommendation of the Governor.

Provincial Consolidated Fund and the public account of the Province.

\*146. (1) All revenues received by the Government of a Province, all loans raised by that Government and all moneys received by it in the payment of loans, shall be paid into one consolidated fund, in this Constitution referred to as the "Provincial Consolidated Fund".

(2) All other public moneys received by or on behalf of the Government of the Province shall be credited to the public account of the Province.

\*The Committee is of the opinion that greater financial control will be secured through Provincial Consolidated Fund and this scheme has therefore been adopted.

(3) No money shall be withdrawn from the Provincial Consolidated Fund except under authority of the Constitution or of an Act of the Legislative Assembly.

(4) The executive authority of the Province shall extend to borrowing upon the security of the Provincial Consolidated Fund within such limits, if any, as may from time to time be determined by Act of the Legislative Assembly and to the giving of guarantees within such limits, if any, as may be so determined.

147. (1) Notwithstanding anything in this Part, a Legislative Assembly may by law establish a Provincial Contingency Fund in order to enable the Governor to make advances for the meeting of unforeseen expenditure pending authorisation by the Assembly in accordance with the Constitution. Provincial Contingency Fund.

(2) There shall be issued to the Provincial Contingency Fund out of the Provincial Consolidated Fund such sums as may from time to time be authorised by Act of the Legislative Assembly.

148. (1) The custody of a Provincial Consolidated Fund, including the Provincial Contingency Fund, the payment of moneys into such Fund, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Fund received by or on behalf of the Government of the Province, their payment into the public account of the Province and the withdrawal of moneys from such account, and all matters connected with or ancillary to matters aforesaid, shall be regulated by Act of the Legislative Assembly and, until provision in that behalf is so made, shall be regulated by rules made by the Governor. Custody of public moneys in the Province.

(2) All moneys received by or deposited with—

- (a) any officer employed in connection with the affairs of a Province in his capacity as such, other than revenues or public moneys raised or received by the Government of the Province; and
- (b) any court of law to the credit of any cause, matter, account or person in connection with the affairs of the Province;

shall be paid into the public account of the Province.

\*149. No taxation shall be levied for the purposes of a Province except by or under the authority of an Act of the Legislative Assembly. No taxation except by Act of the Legislative Assembly.

150. (1) Before the beginning of each financial year the Governor of a Province shall present to the Legislative Assembly a statement (in this Part referred to as "the Annual Financial Statement") of the estimated receipts and expenditure of the Government of the Province during that financial year. Annual Financial Statement.

(2) The Annual Financial Statement shall show separately—

- (a) the sums required to meet expenditure which is charged upon the Provincial Consolidated Fund; and

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\*The Committee is of the opinion that Legislative Assembly should have full control over the provincial finances and no provincial tax should be imposed except by and under the authority of the Act of the Provincial Legislature. This article has been included for that purpose though there is no decision of the Constituent Assembly to that effect.



(b) the sums required to meet other expenditure proposed to be made from the Provincial Consolidated Fund ;  
and shall distinguish expenditure to be met from revenue account from other expenditure.

(3) There shall be charged on the Provincial Consolidated Fund—

- (a) the salaries and allowances of the Governor and other expenditure relating to his office ;
- (b) the salaries and allowances and pensions payable to and in respect of the Judges of the High Court ;
- (c) the administrative expenses of the High Court including the salaries, allowances and pensions payable to and in respect of the officers and servants of that Court ;
- (d) all debt charges for which the Government of the Province is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans and the service and redemption of debt on the security of the Provincial Consolidated Fund ;
- (e) any sums required to satisfy any judgment, decree or award against the Province by any court or arbitral tribunal ; and
- (f) any other sums declared by the Constitution or by an Act of the Legislative Assembly to be charged on the Provincial Consolidated Fund.

Procedure relating to Annual Financial Statement.

151. (1) So much of an Annual Financial Statement as relates to expenditure charged upon the Provincial Consolidated Fund may be discussed but shall not be voted upon by the Legislative Assembly and the amount authorised by this Constitution to be expended shall be the amount specified in the Annual Financial Statement.

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

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

(4) If any question arises whether an item of expenditure is charged on the Provincial Consolidated Fund, it shall be submitted to the Speaker of the Legislative Assembly, whose decision thereon shall be final.

Appropriation Bill.

\*152. (1) After the Annual Financial Statement has been approved by a Legislative Assembly there shall be introduced in the Assembly a Bill incorporating the grants voted by the Legislative Assembly under Article 151.

(2) No amendment shall be proposed in the Assembly which will have the effect of varying the amount or altering the destination of any payment so made.

(3) Subject to the provisions of the Constitution, no money shall be withdrawn from the Provincial Consolidated Fund except under appropriation made in accordance with this Article.

Supplementary Financial Statement.

153. (1) If in respect of any financial year the Governor of a Province considers that the amount authorised to be expended for a particular

\*The Committee considers it desirable to provide for Appropriation Bill instead of Authentication of the Schedule of Expenditure by the Governor.

service is likely to prove insufficient or that a need has arisen for expenditure upon some service not included in the Annual Financial Statement for that year, he shall cause to be laid before the Legislative Assembly a Supplementary Financial Statement.

(2) The provisions of this Part shall apply to a Supplementary Financial Statement as they apply to an Annual Financial Statement.

154. (1) If in respect of any financial year it is found that the expenditure authorised by or under the Constitution to be expended on any Provincial service has been exceeded, the Governor shall cause to be laid before the Legislative Assembly a Statement of Excess Expenditure in respect of every such vote, setting out the amount of the excess expenditure and the reasons therefor.

(2) The provisions of this Part shall apply to a Statement of Excess Expenditure as they apply to an Annual Financial Statement.

155. Notwithstanding anything in the foregoing provisions of this Chapter, a Legislative Assembly shall have power—

(a) to make any grant in advance in respect of the expenditure of any financial year pending the completion of the procedure prescribed by Articles 151 and 152 ;

(b) to make a grant for meeting an unexpected demand upon the resources of the Province which, on account of the magnitude or the indefinite character of the service, cannot be specified in the detail ordinarily provided in an Annual Financial Statement ;

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

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

*Other provisions relating to Legislative Assemblies*

156. Subject to the provisions of the Constitution—

(1) the procedure of a Legislative Assembly shall be regulated by Standing Orders framed by it ;

(2) a decision of the Legislative Assembly shall be taken by a majority of the members present and voting. The person presiding shall not vote except when there is an equality of votes, in which case he shall exercise a casting vote ;

(3) a decision of the Legislative Assembly shall be valid notwithstanding that there are vacancies among the members or that a person disqualified from voting has voted ; and

(4) the quorum of a Legislative Assembly shall be one-seventh of the total number of members of the Assembly.

*Explanation.*—In the computation of the quorum, any fraction shall be ignored.

157. (1) Every Legislative Assembly shall elect a Speaker and a Deputy Speaker from among its members.

(2) While the office of Speaker is vacant, the Deputy Speaker shall exercise the functions of the Speaker.

(3) If the offices of Speaker and Deputy Speaker are both vacant, the Governor shall appoint a person to exercise the functions of the Speaker pending the filling of either office by the Legislative Assembly.

(4) The Speaker shall preside at a meeting of the Legislative Assembly if he is present, and if he is absent the Deputy Speaker, if present, shall preside :

Provided that while a motion for the removal of the Speaker or the Deputy Speaker is under discussion, the Speaker or the Deputy Speaker, as the case may be, shall not preside, but shall have the right to take part in the proceedings of the Legislative Assembly including the right to vote.

(5) In the absence of a person authorised to preside under the foregoing provisions of this Article, the person authorised to preside may be determined by the Standing Orders of the Legislative Assembly ; and if there is no such person the Assembly may elect a person to preside at that meeting.

(6) The office of Speaker or Deputy Speaker shall become vacant if—

(a) he dies ; or

(b) he ceases to be a member of the Assembly ; or

(c) he resigns by writing addressed to Governor ; or

(d) a resolution for his removal is passed in the Assembly by a majority of the total number of members of the Assembly : provided that at least fourteen days' notice of such resolution has been given :

Provided that on a dissolution of the Assembly the Speaker and the Deputy Speaker shall remain in office until immediately before the first meeting of the Assembly after the dissolution.

Salary and allowances of the Speaker or Deputy Speaker of the Legislative Assembly.

158. There shall be paid to the Speaker and the Deputy Speaker of a Legislative Assembly such salaries and allowances as may be provided by Act of the Legislative Assembly :

Provided that after they have been so determined, the salary and allowances paid to a Speaker or Deputy Speaker shall not be varied to his disadvantage during his tenure of office.

Exclusion of the jurisdiction of courts from matters pertaining to proceedings in the Legislative Assembly, and acts of officers of the Legislative Assembly.

159. (1) The validity of any proceedings in a Legislative Assembly shall not be called in question in any court.

(2) No officer or member of a Legislative Assembly in whom powers are vested by or under the Constitution for the regulation of procedure or the conduct of business or the maintenance of order in the Assembly shall, in relation to the exercise by him of any of those powers, be subject to the jurisdiction of any court.

(3) No member of a Legislative Assembly and no person authorised to speak in the Assembly shall be liable to any proceeding in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof.

(4) No person shall be liable to any proceeding in any court in respect of the publication by or under the authority of a Legislative Assembly of any report, paper, vote or proceedings.

#### *Excluded and Special Areas*

Excluded Areas.

160. (1) The expression "excluded area" means an area which was an "excluded area" immediately before Constitution Day and has not ceased to be an excluded area, or which has after Constitution Day been declared by an order issued by the President to be an excluded area.

(2) The executive authority of a Province shall extend to any excluded area therein but, notwithstanding anything in the Constitution,

no Act of Parliament or of a Legislative Assembly shall apply to an excluded area unless the Governor by public notification so directs, and in giving such a direction with respect to any Act, he may direct that the Act shall in its application to the area, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(3) The Governor may make regulations for the peace and good government of any excluded area in the Province, and any such regulations may repeal or amend any Act of Parliament or of the Legislative Assembly or any other law in force in the area :

Provided that no regulation repealing or amending an Act of Parliament shall take effect until it has received the approval of the President.

(4) The President may by order—

- (a) direct that the whole or any specified part of an excluded area shall cease to be an excluded area or part of an excluded area ; or
- (b) alter, but only by way of rectification of boundaries, any excluded area,

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary.

161. (1) The executive authority of a Province shall extend to any special area therein but, notwithstanding anything in the Constitution, no Act of Parliament or of a Legislative Assembly shall apply to a special area or any part thereof unless the Governor with the previous approval of the President by public notification so directs, and in giving such a direction with respect to any Act the Governor may direct that the Act shall in its application to the area, or to any specified part thereof, have effect subject to such exceptions and modifications as he thinks fit. Special Areas.

(2) The Governor may with the approval of the President make regulations for the peace and good government of a special area or any part thereof and any regulation so made may repeal or amend any Act of Parliament or of the Legislative Assembly or any other law in force in the area.

(3) The President may from time to time give such directions to the Governor relating to any special area as he may deem necessary and the Governor shall, in the discharge of his functions under this Article, comply with such directions.

(4) The President may at any time by order—

- (a) direct that the whole or any part of a special area shall cease to be a special area ; or
- (b) alter the boundaries of any special area ;

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper :

Provided that—

- (i) before making any order under this clause the President shall ascertain in such manner as he considers appropriate the views of the people of the special area concerned ; and
- (ii) in case the Legislature of the Baluchistan States Union, if any, or the members of such Legislature representing a State forming part of the Union, resolve by a majority of votes that any area of the Union or of the State, as the case may be, should cease to be a special area,

the President shall take steps to give effect to such resolution within six months.

## PART VII

## Relations between the Federation and the Provinces

## CHAPTER I—LEGISLATIVE POWER

Territorial extent of legislative power.

**162.** (1) Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of Pakistan, and the Legislative Assembly of a Province may make laws for the whole or any part of the Province.

(2) The power of Parliament under this Article shall include the power to make laws having extra-territorial operation.

Subjects on which Parliament and Legislative Assemblies may legislate.

**\*163.** (1) Notwithstanding anything in clauses (2) and (3), Parliament has, and a Legislative Assembly has not, power to make laws with respect to any of the matters enumerated in List I in the Fifth Schedule (in this Constitution referred to as the "Federal List").

(2) Notwithstanding anything in clause (3), Parliament, and subject to clause (1), a Legislative Assembly also, have power to make laws with respect to any of the matters enumerated in List III in the said Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislative Assembly has, and Parliament has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule (in this Constitution referred to as the "Provincial List").

(4) Parliament has power to make laws with respect to matters enumerated in the Provincial List except for a Province or any part thereof.

Residuary powers.

**164.** The President in consultation with the Governments of the Provinces may by order direct that any specified subject not mentioned in any of the foregoing Lists shall be included in the Federal List, the Concurrent List, or the Provincial List; and when any such order is made by the President, the appropriate List shall stand amended accordingly.

Planning and co-ordination in respect of subjects in the Concurrent and Provincial Lists.

**165.** The executive authority of the Federation shall extend to planning and co-ordination in respect of matters in the Provincial and Concurrent Lists; and notwithstanding anything in Article 163 Parliament shall have power to make laws for such purposes after consultation with the Governments of the Provinces concerned.

Power of Parliament to legislate for Provinces by consent.

**166.** (1) If resolutions are passed by the Legislative Assemblies of two or more Provinces requesting that Parliament may make law in respect of any matter in the Provincial List, Parliament shall have the power to make law accordingly, and any Act of Parliament so passed shall apply to those Provinces.

(2) If after the passing of an Act in accordance with clause (1) it appears to the Legislative Assembly of any other Province to be desirable that any such law should apply to that Province, the Legislative Assembly may by resolution apply the Act to that Province.

(3) Any Act of Parliament passed in accordance with this Article may be amended or repealed by an Act of Parliament passed in like manner, but may, in respect of any Province to which it applies, be amended or repealed also by the Legislative Assembly of that Province.

\*In the Lists given in the Fifth Schedule, items pertaining to financial matters have not been included, as there was no decision of the Constituent Assembly with regard to this matter.

167. Notwithstanding anything in the Constitution, Parliament has power to make laws for the whole or any part of the territory of Pakistan for giving effect to any treaty, agreement or convention with any other country or countries, or any decision taken at any international conference, association or body.

Legislation for giving effect to international agreements, etc.

168. (1) If any provision of an Act of a Legislative Assembly is repugnant to any provision of an Act of Parliament which Parliament is competent to enact or to any provision of any existing law with respect to any of the matters enumerated in the Concurrent List, then, subject to the provisions of this Article, the Act of Parliament, whether passed before or after the Act of the Legislative Assembly or as the case may be, the existing law shall prevail and the Act of the Legislative Assembly shall, to the extent of the repugnancy, be void.

Inconsistency between laws made by Parliament and laws made by the Legislative Assembly.

*Explanation.*—This clause does not apply to any repugnancy under Article 166.

(2) Where an Act of a Legislative Assembly with respect to any of the matters in the Concurrent List contains any provision repugnant to the provisions of an earlier Act of Parliament or an existing law with respect to that matter, then, if the Act of the Legislative Assembly, having been reserved for the consideration of the President has received his assent, the Act of the Legislative Assembly shall prevail in the Province concerned, but nevertheless Parliament may at any time enact further legislation with respect to the same matter :

Provided that no Bill or amendment for making any provision, repugnant to any Act of a Legislative Assembly, which having been so reserved has received the assent of the President, shall be introduced or moved in either House of Parliament without the previous sanction of the Parliament.

169. No Act of Parliament or of a Legislative Assembly, and no provision of any such Act, shall be invalid by reason only that some previous sanction or recommendation was not given, if assent to that Act was given—

An Act of Parliament or Legislative Assembly not to be invalid for want of recommendation by the President or Governor if it is assented to.

- (a) where the previous sanction or recommendation required was that of the Governor, either by the Governor or by the President ; and
- (b) where the previous sanction or recommendation required was that of the President, by the President.

#### CHAPTER II.—ADMINISTRATIVE RELATIONS

170. (1) The executive authority of every Province shall be so exercised as to ensure compliance with the Acts of Parliament and any existing laws which apply to that Province, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Government of the Federation to be necessary for that purpose.

Obligation of Provinces and Federation and control of Federation over Provinces in certain cases.

(2) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Government of the Federation to be necessary for that purpose.

(3) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in such direction to be of national or military importance :

Provided that nothing in this clause shall be taken to restrict the power of Parliament to declare highways or waterways to be national

highways or national waterways or the authority of the Federation with respect to the highways or waterways so declared, or the authority of the Federation to construct and maintain means of communication as part of its authority with respect to naval, military or air force works.

(4) The executive authority of the Federation shall extend to the giving of directions to a Province as to the measures to be taken for the protection of railways within the Province.

(5) Where in carrying out any direction given to a Province under clause (3) as to the construction or maintenance of any means of communication or under clause (4) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the Province if such directions had not been given, there shall be paid by the Government of the Federation to the Government of the Province such sums as may be agreed, or in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes in Article 174.

Delegation of powers to Provinces.

\*171. (1) Notwithstanding anything in the Constitution, the President may, with the consent of the Government of a Province, entrust subject to such conditions, if any, as he may specify, to that Government or to any officer thereof, functions in relation to any matter to which the executive authority of the Federation extends.

(2) An Act of Parliament may, notwithstanding that it relates to a matter with respect to which a Legislative Assembly of a Province has not the power to make laws, confer powers and impose duties or authorise the conferment of powers and the imposition of duties, upon a Province or officers or authorities thereof.

(3) Where, by virtue of this Article powers and duties have been imposed upon a Province or officers or authorities thereof, there shall be paid by the Government of the Federation to the Government of the Province such sums as may be agreed, or, in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes in Article 174, in respect of any extra costs incurred by the Province in connection with the exercise of those powers and duties.

Acquisition of land for Federal purposes.

172. The Government of the Federation may, if it deems it necessary to acquire any land situate in a Province for any purpose connected with a matter with respect to which Parliament has power to make laws, require the Government of the Province to acquire the land on behalf, and at the expense, of the Federation or, if the land belongs to the Province, to transfer it to the Federation on such terms as may be agreed or in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes in Article 174.

Regulation of water-supply from natural sources.

173. (1) If it appears to the Government of a Province that the interests of the Province, or of any of the inhabitants thereof, in the water from any natural source of supply in Pakistan have been, or are likely to be, affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed ; or

\*This Article does not contain any provision corresponding to sub para. (2) of paragraph 155 of the Basic Principles Committee Report, (as adopted), as the Committee considered the provision to be unnecessary. If however, it is still considered necessary to make a specific provision in that behalf, the Committee suggest that the following clause be adopted :

“When in accordance with article 166, Parliament enacts a law for regulating a matter enumerated in the Provincial List, the executive authority of the Federation shall extend to the giving of such directions to the Provinces concerned as may appear to the Government of the Federation to be necessary for that purpose”.

- (b) the failure of any authority to exercise any of their powers with respect to the use, distribution or control of water from that source,

and that the matter has not been suitably regulated by agreement, the matter may be determined in accordance with the procedure prescribed for the settlement of disputes by Article 174.

(2) If it appears to the President that the interests of any part of Pakistan which has not a Legislative Assembly, or any of the inhabitants of that part, in the water from any natural source of supply in any Province have been, or are likely to be, affected prejudicially by—

- (a) any executive action or legislation taken or passed, or proposed to be taken or passed; or  
 (b) the failure of any authority to exercise any of these powers, with respect to the use, distribution or control of water from that source,

the matter may be determined in accordance with the procedure prescribed for the settlement of disputes by Article 174.

(3) Notwithstanding anything in the Constitution or in any Act of Parliament, neither the Supreme Court nor any other Court shall have jurisdiction to entertain any action or suit in respect of any matter if action in respect of that matter could have been taken under this Article.

174. (1) Any dispute between the Federation and one or more Provinces, or between two or more Provinces, other than a dispute which is within the jurisdiction of the Supreme Court, may be referred by any of the Governments involved in the dispute to the Chief Justice of Pakistan, who may appoint a tribunal to settle the dispute. Settlement  
disputes.

(2) Subject to the provisions of any Act of Parliament, the practice and procedure of any such tribunal, including the fees to be charged and the award of costs, shall be determined by rules made by the Supreme Court and approved by the President.

(3) The report of the tribunal shall be forwarded to the Chief Justice, who shall see that the purpose for which the tribunal was appointed has been carried out and who may refer the report back for further consideration if he considers that the purpose has not been carried out; and the Chief Justice shall forward the report to the President, who shall give such decision and make such order, if any, in the matter as he may deem proper.

(4) Effect shall be given in any Province to any order made under this Article by the President, and any Act of a Legislative Assembly which is repugnant to the order shall, to the extent of the repugnancy, be void.

(5) An order made by the President under this Article may be varied by the President in accordance with an agreement among the parties concerned.

175. If at any time it appears to the President that the public interests would be served by the establishment of an Inter-Provincial Council charged with the duty of—

- (a) inquiring into and advising upon disputes which may have arisen between Provinces; or  
 (b) investigating and discussing subjects in which some or all of the Provinces, or the Federation and one or more of the Provinces, have a common interest; or



- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

the President may, with the consent of the Governments of the Provinces concerned, establish such a Council, and define the nature of the duties to be performed by it and its organisation and procedure.

### CHAPTER III—FINANCIAL RELATIONS

Stamp duties  
and terminal  
taxes.

\*176. Such stamp duties as are in the Federal List, terminal taxes on goods or passengers carried by railway or air, and taxes on railway fares and freights, shall be levied and collected by the Government of the Federation, but the net proceeds of any such duty or tax, except in so far as those proceeds represent proceeds attributable to areas which are not part of any province, shall not form part of the Federal Consolidated Fund, but shall be assigned to the Provinces within which that duty or tax is leviable in that year, and shall be distributed among the Provinces in accordance with such principles of distribution as may be formulated by Act of Parliament:

Provided that Parliament may at any time increase any of the said duties or taxes by a surcharge for the purposes of the Federation, and the whole proceeds of any such surcharge shall form part of the Federal Consolidated Fund.

Taxes on  
incomes.

\*177. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to areas which are not part of any province, or the taxes payable in respect of federal emoluments, shall not form part of the Federal Consolidated Fund, but shall be assigned to the Provinces within which that tax is leviable in that year and shall be distributed among the Provinces in such manner as may be prescribed:

Provided that—

- (a) the percentage originally prescribed under this clause shall not be increased by any order of the President; and
- (b) Parliament may at any time increase the said taxes by a surcharge for the purposes of the Federation and the whole proceeds of any such surcharge shall form part of the Federal Consolidated Fund.

(2) For the purposes of clause (1) in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Federal emoluments shall be deemed to represent proceeds attributable to areas which are not part of any province.

(3) In this Article—

“taxes on income” does not include a corporation tax;

“Federal emoluments” include all emoluments and pensions payable out of the Federal Consolidated Fund in respect of which income tax is chargeable.

Salt  
export  
and  
duties.

\*178. (1) Duties on salt, Federal duties of excise and export duties shall be levied and collected by the Government of the Federation, but if an Act of Parliament so provides, there shall be paid out of the Federal Consolidated Fund to the Provinces sums equivalent to the whole or any part

\*In the absence of specific decisions of the Constituent Assembly on the question of financial regulations and taxation the Committee has included the existing financial provisions.

of the net proceeds of that duty, and those sums shall be distributed among the Provinces in accordance with such principles of distribution as may be formulated by the Act.

(2) Notwithstanding anything in the preceding clause, such proportions as the President may by order determine of the net proceeds in each year of any export duty on jute or jute products shall not form part of the Federal Consolidated Fund, but shall be assigned to the Province of East Bengal.

**\*179.** Taxes on the sale of goods shall be levied and collected by the Government of the Federation, but such portions of the net proceeds in any financial year of any such tax as may be prescribed shall not form part of the Federal Consolidated Fund, but shall be assigned to the Provinces, and shall be distributed among the Provinces in such manner as may be prescribed. Taxes on sale of goods.

In this Article "prescribed" means prescribed by order of the President.

**\*180.** (1) No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to income tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to Provinces, or which imposes any such surcharge for the purposes of the Federation as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in Parliament except with the previous sanction of the President. Prior sanction of the President required to Bills affecting taxation in which Provinces are interested.

(2) The President shall not give his sanction to the introduction of any Bill or the moving of any amendment imposing in any year any such surcharge as aforesaid unless he is satisfied that all practicable economies and all practicable measures of otherwise increasing the proceeds of Federal taxation or the portion thereof retainable by the Government of the Federation would not result in the balancing of Federal receipts and expenditure on revenue account in that year.

(3) In this Article the expression "tax or duty in which the Provinces are interested" means—

- (a) a tax or duty the whole or part of the net proceeds whereof are assigned to any Province; or
- (b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Federal Consolidated Fund to any Provinces.

**\*181.** (1) Such sums as Parliament may by law provide shall be charged on the Federal Consolidated Fund in each year as grants-in-aid of the revenues of such Provinces as Parliament may determine to be in need of assistance, and different sums may be fixed for different Provinces. Grants from Federation to Provinces.

(2) Until provision is made by Parliament under clause (1), the power conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament.

**\*182.** (1) Additional grants shall be paid to the North-West Frontier Province and Baluchistan Province in respect of the extra expenditure involved in assuming and maintaining responsibility for the Special Areas. Additional grants to the North-West Frontier Province and Baluchistan Province.

\*In the absence of specific decisions of the Constituent Assembly on the question of financial regulations and taxation the Committee has included the existing financial provisions.

In the event of any dispute between the Government of the Federation and the Government of the Province reference will be made to Article 174.

(2) Such grants may be paid annually and may be revised from time to time.

Taxes on professions, trades, callings and employments.

**\*183** (1) Notwithstanding anything in Article 163, no Act of a Legislative Assembly relating to taxes for the benefit of the Province or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of one person to the Province or to any one municipality, district board, local board or other local authority in the Province by way of taxes on professions, trades, callings and employments shall not exceed fifty rupees per annum :

Provided that, if in the financial year immediately preceding Constitution Day there was in force in the case of any Province, or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded fifty rupees per annum, the preceding provisions of this clause shall, unless for the time being provision to the contrary is made by Act of Parliament, have effect in relation to that Province, municipality, board or authority as if for the reference to fifty rupees per annum there were substituted a reference to that rate or maximum rate, or such lower rate, if any (being a rate greater than fifty rupees per annum), as may for the time being be fixed by Act of Parliament ; and any Act of Parliament made for any of the purposes of this proviso may be made either generally or in relation to any specified Provinces, municipalities, boards or authorities.

(3) The fact that the Legislative Assembly of the Province has power to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting, in relation to professions, trades, callings and employments, the generality of the entry in the Federal List relating to taxes on income.

Savings.

**\*184.** Any taxes, duties, cesses or fees which, immediately before Constitution Day, were being temporarily levied by the Government of any Province, or by any municipality, or other local authority or body for the purposes of the Province, municipality, district or other local areas may, notwithstanding that these taxes, duties, cesses or fees are mentioned in the Federal List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Act of Parliament.

Calculation of net proceeds, etc.

**\*185.** (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor General, whose certificates shall be final.

(2) Subject as aforesaid, and to any other express provisions of this Chapter, an Act of Parliament may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any Province, or a contribution is or may be made to the Federal Consolidated Fund by

\*In the absence of specific decisions of the Constituent Assembly on the question of financial regulations and taxation the Committee has included the existing financial provisions.

any Province, provide for the manner in which the proceeds of any duty or tax are to be calculated, for the times in each year and the manner at and in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

\*186. Parliament or the Legislative Assembly of a Province may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislative Assembly, as the case may be, may make laws. Grants for public purposes.

\*187. Where under the provisions of the Constitution the expenses of any court or commission, or the pensions payable to or in respect of a person who has served in the service of Pakistan are charged on the Federal Consolidated Fund or a Provincial Consolidated Fund, then if— Adjustment in respect of certain expenses and pensions.

(a) in the case of a charge on the Federal Consolidated Fund, the court or commission serves any of the separate needs of a Province, or the person has served wholly or in part in connection with the affairs of a Province; or

(b) in the case of a charge on the Consolidated Fund of a Province, the court or commission serves any of the separate needs of the Federation or another Province, or the person has served wholly or in part in connection with the affairs of the Federation or another Province,

there shall be charged on and paid out of the Consolidated Fund of the Province or, as the case may be, the Federal Consolidated Fund or the Consolidated Fund of the other Province, such contribution in respect of the expenses or pensions as may be agreed, or in default of agreement, as may be determined in accordance with the procedure prescribed for the settlement of disputes in Article 174.

\*188. (1) Where by or under an Act of Parliament any income is received by the Government of the Federation in respect of mineral rights in a Province, there shall be paid out of the Federal Consolidated Fund to the Province a sum equivalent to three-fourths of the net income from such rights. Share of the Provinces in the moneys relating to mines, etc., declared to be of public interest.

(2) If any dispute arises as to the sum to be paid to a Province under this Article, it may be determined in accordance with the procedure prescribed for the Settlement of disputes in Article 174.

\*189. (1) Parliament may by law authorise the Government of the Federation subject to such conditions, if any, as it may think fit to impose, to make loans to, or give guarantees in respect of loans raised by, the Government of any Province; and any sums required for the purpose of making loans to a Province shall be charged on the Federal Consolidated Fund. Borrowing by Provincial Governments.

(2) The Government of a Province may not without the consent of the President borrow outside Pakistan, nor without the like consent raise any loan if there is still outstanding any part of a loan made to the Government of the Province by the Government of the Federation or in respect of which a guarantee has been given by the Government of the Federation.

A consent under this clause may be granted subject to such conditions, if any, as the Government of the Federation may think fit to impose.

\*190. Nothing in the Constitution shall authorise the Legislative Assembly of a Province or the Government thereof— Inter-Provincial trade.

(a) to restrict by law or executive action the entry into or export from the Province of goods of any class or description; or

\*In the absence of specific decisions of the Constituent Assembly on the question of financial regulations and taxation the Committee has included the existing financial provisions.

- (b) to impose any tax, cess, toll or dues which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminate in favour of the former, or which, in the case of goods manufactured or produced outside the Province, discriminate between goods manufactured or produced in any locality and similar goods produced in another locality :

Provided that any Act of the Legislative Assembly which imposes any reasonable restriction in the interest of public health, public order or morality shall not be invalid under this Article if it is otherwise valid under the Constitution : but any Bill for this purpose which has been approved by the Legislative Assembly shall be reserved for the President's assent.

Prior sanction of the President for Bills affecting coinage, currency or the State Bank.

**\*191.** No Bill or amendment which affects the coinage or currency of Pakistan or the constitution or functions of the State Bank of Pakistan shall be introduced or moved in either House of Parliament without the previous sanction of the President.

Property of the Federal Government exempted from taxes.

**\*192.** Property vested in the Government of the Federation shall, save in so far as Parliament may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province :

Provided that, until Parliament otherwise provides, any property so vested which was immediately before Constitution Day liable, or treated as liable, to any such tax shall continue to be liable or treated as liable so long as that tax continues.

Exemption from taxes on electricity.

**\*193.** (1) Save in so far as Parliament may otherwise provide, no Act of a Legislative Assembly shall impose or authorise the imposition of a tax upon the consumption or sale of electricity (whether provided by a Government or by any other person) which is—

- (a) consumed by the Government of the Federation or sold to that Government for consumption by that Government ; or
- (b) consumed in the construction, maintenance or operation of a railway by a railway company operating that railway or sold to such company for consumption in the construction, maintenance or operation of a railway.

(2) Any such Act of a Legislative Assembly shall secure that the price of electricity sold for the purposes mentioned in clause (1) shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption of Provincial Governments from taxes.

**\*194.** The Government of a Province shall not be liable to taxation under any Act of Parliament in respect of lands or buildings situated in Pakistan or income accruing, arising or received in Pakistan :

Provided that where a trade or business of any kind is carried on by or on behalf of the Government of a Province outside that Province, nothing in this Article shall exempt the Government in respect of that trade or business or any operation, connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof.

\*In the absence of specific decisions of the Constituent Assembly on the question of financial regulations and taxation the Committee has included the existing financial provisions.

## PART VIII

## Audit and Accounts

\*195. (1) There shall be a Comptroller and Auditor-General of Pakistan, who shall be appointed by the President. Comptroller and Auditor-General of Pakistan.

(2) Before the Comptroller and Auditor-General assumes office he shall make and subscribe before the President or some person authorised by him an oath in the form set out in the First Schedule.

(3) The salary, allowances and other conditions of service of the Comptroller and Auditor-General shall be determined by Act of Parliament :

Provided that after they have been determined by Act of Parliament neither his salary and allowances nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage during his tenure of office.

196. (1) A person who has held office as Comptroller and Auditor-General shall not be eligible for further appointment in the service of Pakistan. Removal of the Comptroller and Auditor-General and ineligibility for further service.

(2) The Comptroller and Auditor-General shall not be removed except for misbehaviour or infirmity of mind or body. If the President has reason to believe that there is cause for the removal of the Comptroller and Auditor-General he shall instruct the Advocate-General of the Federation to move the Supreme Court to appoint a bench of three Judges to enquire into the question. The finding of the bench shall be reported to the President, and if the finding is that there is cause for removal, the President shall remove the Comptroller and Auditor-General accordingly.

197. The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the expenditure and accounts of the Federation and of the Provinces as may be provided by Act of Parliament : Duties and powers of Comptroller and Auditor-General.

Provided that no Bill or amendment relating to such duties or powers may be introduced or moved in either House of Parliament without the previous sanction of the President.

198. (1) If the Legislative Assembly of a Province passes an Act providing for the appointment of an Auditor-in-Chief for the Province and for the charging on the Provincial Consolidated Fund of— Auditor-in-Chief of Provinces.

(a) the salary, allowances and pensions payable to and in respect of the Auditor-in-Chief; and

(b) the administrative expenses of the Department of the Auditor-in-Chief, including the salaries, allowances and pensions payable to and in respect of the officers and servants of that Department ;

the President may appoint an Auditor-in-Chief for the Province.

(2) Before the Auditor-in-Chief enters upon his office he shall make and subscribe before the Governor or some person authorised by him an oath in the form set out in the First Schedule.

\*The Committee thinks "Comptroller and Auditor-General of Pakistan" shall be more suitable designation than "Auditor-General of Pakistan" having regard to the duties of the office.

(3) The salary, allowances and other conditions of service of the Auditor-in-Chief shall be determined by Act of the Legislative Assembly :

Provided that neither the salary and allowances nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage during his tenure of office.

(4) A person who has held office as Auditor-in-Chief shall be eligible for appointment as Auditor-General but shall not be eligible for any other appointment in the service of Pakistan.

(5) The Auditor-in-Chief shall perform such duties and exercise such powers in relation to the accounts of the Province as may be provided by Act of the Legislative Assembly :

Provided that no Bill or amendment relating to such duties or powers may be introduced or moved in the Legislative Assembly without the previous sanction of the Governor.

(6) Nothing in this Article shall derogate from the power of the Comptroller and Auditor-General to give directions in respect of the form of the accounts of a Province in accordance with Article 199.

Power of Comptroller and Auditor-General of Pakistan to give directions with respect to accounts.

**199.** The accounts of the Federation and of the Provinces shall be kept in such form as the Comptroller and Auditor-General may, with the approval of the President, prescribe.

Audit Reports.

**200.** The reports of the Comptroller and Auditor-General relating to the accounts of the Federation shall be submitted to the President, who shall cause them to be laid before Parliament, and the reports of the Comptroller and Auditor-General, or of the Auditor-in-Chief of the Province, relating to the accounts of a Province, shall be submitted to the Governor, who shall cause them to be laid before the Legislative Assembly.

## PART IX

## The Judiciary

## CHAPTER I—THE SUPREME COURT

201. There shall be a Supreme Court of Pakistan—consisting of a Chief Justice and such number of other Judges, not being less than two nor more than six, as the President may deem necessary ;

of the  
Supreme  
Court.

Provided that the numbers may be increased beyond six by joint resolution.

202. (1) The Chief Justice of Pakistan shall be appointed by the President and the other Judges shall be appointed by the President in accordance with the recommendation of the Chief Justice.

of Judges.

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

(a) he has been for at least five years a Judge of a High Court ; or

(b) he is a barrister of fifteen years' standing ; or

(c) he has for at least fifteen years been an advocate or a pleader of a High Court or of two or more High Courts.

(3) A Judge of the Supreme Court shall before he assumes office make and subscribe before the President or some person authorised by him an oath in the form set out in the First Schedule.

203. (1) Subject to Article 204 a Judge of the Supreme Court shall hold office until he attains the age of sixty-five years.

Age of  
superannua-  
tion and  
disabilities  
of Judges.

(2) A person who has held office as a permanent Judge of the Supreme Court shall not plead or act before any court or tribunal within the territory of Pakistan.

204. (1) A Judge of the Supreme Court may resign his office by writing addressed to the President.

Resignation  
and removal  
of Judges.

(2) A Judge of the Supreme Court shall not be removed except for misbehaviour or infirmity of mind or body. If the President has reason to believe that there is cause for the removal of a Judge, he shall instruct the Advocate-General of the Federation to move the Supreme Court to appoint a bench of three Judges to enquire into the question. The finding of the bench shall be reported to the President, and if the finding is that there is cause for removal, the President shall remove the Judge accordingly.

205. (1) The salary, allowances and rights in respect of leave and pensions of a Judge of the Supreme Court shall not be varied to his disadvantage after his appointment.

Salary and  
allowances  
of Judges.

(2) The conduct of a Judge of the Supreme Court, acting in his judicial capacity, shall not be called in question in Parliament or in any Legislative Assembly.

## CHAPTER II—THE HIGH COURTS

206. A High Court shall consist of a Chief Justice and such number of other Judges as the President may deem it necessary to appoint.

Constitution  
of the High  
Courts.



Appointment  
of Judges.

207. (1) A Judge of a High Court shall be appointed by the President in accordance with the recommendation of the Chief Justice of Pakistan ; and the Chief Justice shall, before making a recommendation for the appointment of a Judge other than a Chief Justice, consult the Chief Justice of the High Court concerned.

(2) Subject to Article 209, a Judge of a High Court shall hold office until he attains the age of sixty years.

(3) A person who has held the office of Judge of a High Court shall not plead or act before that Court or any court or authority within its jurisdiction.

(4) A Judge of a High Court shall, before he assumes office, make and subscribe before the Governor of the Province, or some person authorised by him, an oath in the form set out in the First Schedule.

Qualifications  
of Judges.

208. (1) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen and—

- (a) is a barrister of at least ten years' standing ; or
- (b) has for at least ten years been an advocate or pleader of any High Court, or of two or more High Courts ; or
- (c) is a member of the former Indian Civil Service of at least ten years' standing, who has for at least three years served as, or exercised the powers of, a District Judge ; or
- (d) has for at least ten years held a judicial office in Pakistan :

Provided that a person shall not be qualified for appointment as a permanent Chief Justice of a High Court—

- (i) unless he is, or when first appointed to the judicial office he was, a barrister, advocate or pleader in a High Court ; or
- (ii) unless he has served for not less than three years as a Judge of a High Court.

(2) For the purpose of computing any period referred to in clause (1) there shall be included, as the case may be—

- (a) any period during which a person has held judicial office after being a barrister, advocate or pleader ; and
- (b) any period before the establishment of Pakistan during which a person served as a Judge of a High Court, or was a barrister, advocate or pleader of a High Court, or held judicial office in British India as defined in the Government of India Act, 1935.

Resignation  
and removal  
of Judges.

209. (1) A Judge of a High Court may resign his office by writing addressed to the President.

(2) A Judge of a High Court shall not be removed from his office except for misbehaviour or infirmity of mind or body. If the President has reason to believe that there is cause for the removal of a Judge, he shall instruct the Advocate-General of the Federation to move the Supreme Court to appoint a bench of three Judges to enquire into the question. The finding of the bench shall be reported to the President and if the finding is that there is cause for removal, the President shall remove the Judge accordingly.

210. (1) The salary, allowances and rights in respects of leave and pension of a Judge of a High Court shall not be varied to his disadvantage after his appointment. Salaries and allowances of Judges.

(2) The conduct of a Judge of a High Court, acting in his judicial capacity, shall not be called in question in Parliament or in any Legislative Assembly.

211. (1) Where a High Court has jurisdiction in relation to more than one Province, or in relation to a Province or Provinces and an area not forming part of a Province— Provisions relating to interpretation in cases of High Courts having jurisdiction in more than one Province or an area outside the Province.

- (a) any reference to the Governor or the Provincial Consolidated Fund shall be construed as a reference to the Governor or the Consolidated Fund of the Province in which the court has its principal seat; and
- (b) any reference to the approval by the Governor of rules, forms and tables shall be construed as a reference to the approval by the Governor of the Province in which the subordinate court is situated; and if the subordinate court is situated in an area not forming part of a Province, by the President.

(2) Where a High Court has jurisdiction in relation to an area outside the Province in which it has its principal seat, nothing in the Constitution shall be construed—

- (a) as empowering the Legislative Assembly of the Province in which the Court has its principal seat to increase, restrict or abolish that jurisdiction; or
- (b) as empowering the Legislative Assembly of the Province in which any such area is situated to abolish that jurisdiction; or
- (c) as preventing the Legislative Assembly having power to make laws in that behalf for any such area from passing, subject to the provisions of paragraph (b), such laws with respect to the jurisdiction of the Court in relation to that area as it would have been competent to pass if the principal seat of the Court were in that area.

212. Every High Court shall have power in the territories in relation to which it exercises appellate jurisdiction, to issue to any person or authority, including any Government within those territories, directions, orders or units including units in the nature of *Habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* or any of them, for any purpose. Power of High Court to issue Certain Writs.

## PART X

## The Services of Pakistan

## CHAPTER I—SERVICES

Conditions of service of persons in the service of Pakistan.

**213.** Except as expressly provided by the Constitution, the appointment and conditions of service of any person in the service of Pakistan may be regulated by Act of the appropriate legislature.

Tenure of office of persons employed in public services.

**214.** Except as expressly provided by the Constitution, every person who is a member of a defence service or a civil service of the Federation, or an All-Pakistan service, or holds any post connected with defence or a civil post in connection with the affairs of the Federation, shall hold office during the pleasure of the President, and every person who is a member of a civil service of a Province or holds any civil post in connection with the affairs of a Province shall hold office during the pleasure of the Governor.

Dismissal, disciplinary matters, appeals, etc.

**\*215.** (1) No person who is a member of a civil service of the Federation or of a Province or of an All-Pakistan Service or holds a civil post in connection with the affairs of the Federation or of a Province shall be dismissed or removed from service or reduced in rank by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed from service 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 or removed or 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 or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause\*.

Recruitments and conditions of service.

**216.** (1) Except as expressly provided by the Constitution or any Act of the appropriate legislature, appointments to the civil services of and civil posts in, the service of Pakistan shall be made—

- (a) in the case of services of the Federation and posts in connection with the affairs of the Federation, by the President or such person as he may direct; and
- (b) in the case of services of a Province and posts in connection with the affairs of the Province, by the Governor of the Province or such person as he may direct.

(2) Except as expressly provided by the Constitution or any Act of the appropriate legislature, the conditions of service of persons serving in a civil capacity shall, subject to the provisions of this Article, be such as may be prescribed—

- (a) in the case of persons serving in connection with the affairs of the Federation, by rules made by the President or by some person authorised by the President to make rules for the purpose;

\*The Drafting Committee invites the attention of the Constituent Assembly to the desirability of adding the following paragraph to the proviso:—

- “(c) where the President or the Governor, as the case may be, is satisfied that in the interest of national security it is not expedient to give to that person such an opportunity.”

- (b) in the case of persons serving in connection with the affairs of a Province, by rules made by the Governor of the Province or by some person authorised by the Governor to make rules for the purpose :

Provided that it shall not be necessary to make rules regulating the conditions of service of persons employed temporarily on the terms that their employment may be terminated on one month's notice or less, and nothing in this clause shall be construed as requiring the rules regulating the conditions of service of any class of persons to extend to any matter which appears to the rule-making authority to be a matter not suitable for regulation by rule in the case of that class.

(3) The rules under clause (2) shall be so framed as to secure—

- (a) that the tenure and conditions of service of any person to whom the clause applies shall not be varied to his disadvantage during his tenure of office unless it becomes necessary, in pursuance of national policy resulting from national emergency, to take such action with respect to a class of such persons ; and
- (b) that every such person shall have at least one appeal against any order which—
- (i) punishes or formally censures him ; or
  - (ii) in his opinion alters or interprets to his disadvantage any rule affecting his conditions of service ; or
  - (iii) terminates his employment :

Provided that when such order is an order of the President or of the Governor, the person concerned shall be entitled not to a right of appeal but to a right of review.

*Explanation* :—In the application of this proviso to a person in the service of Pakistan but not under the Government of the Federation or the Government of a Province, the reference to the President or the Governor shall be read as a reference to the highest authority in the branch of the service of Pakistan to which the person belongs.

(4) Any rule under paragraph (a) of clause (2) shall have effect subject to any Act of Parliament, and any rule under paragraph (b) of that clause shall have effect subject to any Act of the Legislative Assembly of the Province ; but nothing in any such Act shall affect clause (3).

217. (1) A Bill or amendment to abolish or restrict the protection afforded by section 197 of the Code of Criminal Procedure, 1898, or by sections 80 to 82 of the Code of Civil Procedure, 1908, shall not be introduced or moved in either House of Parliament or a Legislative Assembly without the previous sanction of the President or the Governor, as the case may be. Proceedings against public officers.

(2) When a civil suit is instituted against a public officer within the meaning of the Code of Civil Procedure, 1908, in respect of any act purporting to be done by him in his official capacity, the whole or any part of the costs incurred by him, and of any damages or costs ordered to be paid by him shall, if the President so directs in the case of a person employed in connection with the affairs of the Federation, or if the Governor of the Province so directs in the case of a person employed in connection with the affairs of the Province, be defrayed out of and be charged on the Federal Consolidated Fund or the Provincial Consolidated Fund, as the case may be.

All-Pakistan  
Services.

218. Parliament may by law provide for the establishment of any All-Pakistan Service and regulate the recruitment and conditions of service of persons appointed to any such service.

#### CHAPTER II.—PUBLIC SERVICE COMMISSIONS

Public  
Service  
Commissions.

\*219. (1) Subject to the provisions of this Article, there shall be a Public Service Commission for the Federation and a Public Service Commission for each Province.

(2) Two or more Provinces may agree—

(a) that there shall be one Public Service Commission (hereinafter referred to as a Joint Public Service Commission) for that group of Provinces ; or

(b) that the Public Service Commission for one of the Provinces shall act as such for all the Provinces ;

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 for a Joint Public Service Commission, specify by which Governor or Governors the functions which are under this Part to be discharged by the Governor of a Province are to be discharged.

(3) The Public Service Commission for the Federation, if requested so to do by the Governor of Province may, with the approval of the President, agree to exercise all or any of the functions of the Public Service Commission of the Province.

(4) Reference in the Constitution to the Federal Public Service Commission or a Provincial Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commission serving the needs of the Federation or, as the case may be, the Province as respects the particular matter in question.

Composition  
of Public  
Service  
Commissions.

220. In the case of the Federal Public Service Commission the President, and in the case of a Provincial Public Service Commission the Governor, may by regulations determine—

(a) the number of members of the Commission and their conditions of service ; and

(b) the number of the members of the staff of the Commission and their conditions of service.

Appoint-  
ments, etc.  
of the  
Members of  
Public  
Service Com-  
missions.

221. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Federal Commission or a Joint Commission by the President, and in the case of a Provincial Commission by the Governor of the Province.

(2) Not less than one-half of the members of a Public Service Commission shall be persons who have held office in the service of Pakistan for not less than fifteen years.

*Explanation* :—For the purposes of this Article “the service of Pakistan” shall be deemed to include the service of the Crown in India before the 15th August, 1947, and the service of the Crown in Pakistan before Constitution Day.

\*Attention is invited to the provisions of sections 264 and 265 of the Government of India Act 1935 whereunder power of appointing the Chairman and members of a Joint Public Service Commission vests in the authority to be determined by an agreement of the Provinces concerned, and also to Article 315 and 316 of the Constitution of India whereunder power to make appointment of a Joint Public Service Commission, vests in the authority to be determined by Act of Parliament.

(3) The conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage during his tenure of office.

(4) The term of office of the Chairman and other members of the Federal Public Service Commission shall be five years, and of a Provincial or Joint Commission, four years.

(5) Any member of a Public Service Commission may resign his office by writing addressed, in the case of the Federal Commission or a Joint Commission, to the President, and in the case of a Provincial Commission, to the Governor.

(6) A person who has held office as a member of a Public Service Commission shall not be eligible for re-appointment to the Commission:

Provided that a person who is already a member of the Commission may be appointed Chairman thereof for the remainder of his term of office.

(7) The Chairman of the Federal Public Service Commission shall not be eligible for further employment in the service of Pakistan.

(8) The Chairman of a Joint Public Service Commission or a Provincial Public Service Commission shall be eligible for appointment as Chairman or other member of the Federal Public Service Commission or as Chairman of another Joint Public Service Commission or Provincial Public Service Commission but shall not otherwise be eligible for employment in the service of Pakistan.

(9) A member of a Public Service Commission, other than the Chairman thereof, shall be eligible for appointment as Chairman or member of any Public Service Commission other than that on which he has already served but shall not be eligible for any other employment in the service of Pakistan.

**222.** (1) A member of a Public Service Commission shall not be removed except for misbehaviour or infirmity of mind or body. Removal of the members of Public Service Commissions.

(2) If the President has reason to believe that there is cause for the removal of a member of the Federal Public Service Commission or a Joint Public Service Commission, or if the Governor of a Province has reason to believe that there is cause for the removal of a member of the Provincial Public Service Commission, he shall instruct the Advocate-General for the Federation, or as the case may be the Advocate-General for the Province, to move the Supreme Court to appoint a bench of three Judges to enquire into the question. The finding of the bench shall be reported to the President or the Governor, as the case may be, and if the finding is that there is cause for removal, the President or the Governor shall remove the member accordingly.

**223.** (1) It shall be the duty of the Federal Public Service Commission to conduct examinations for recruitment to the services of the Federation and the duty of a Joint or Provincial Public Service Commission, to conduct examinations for recruitment to the services of the Province or Provinces. Functions of Public Service Commissions.

(2) It shall be the duty of the Federal Public Service Commission, if requested so to do by the Governments of two or more Provinces, to assist those Governments in framing and operating schemes of joint recruitment for any specified services.

(3) The President in respect of services and posts under the control of the Government of the Federation and the Governor of a Province in respect of services and posts under the control of the Government of the Province may make regulations specifying the matters in which generally or in any particular class of cases or in any particular circumstances it shall not be necessary for a Public Service Commission to be consulted:

but, subject to such regulations, the appropriate Public Service Commission shall be consulted—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts ;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers ;
- (c) on all disciplinary matters relating to persons in the service of Pakistan in a civil capacity, including memorials or petitions relating to such matters ;
- (d) on any claim by or in respect of a person who is serving or has served Pakistan in a civil capacity that any costs incurred by him in defending legal proceedings in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Federal Consolidated Fund or the Provincial Consolidated Fund as the case may be ;
- (e) on any claim for the award of a pension in respect of injuries sustained while serving Pakistan in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of the Public Service Commission to advise on any matter so referred to them and on any other matter which the President or the Governor, as the case may be, may refer to the Commission.

(4) Where under the Constitution or any law, rules may be made for regulating the appointment or conditions of service of persons in the service of Pakistan, but not under the control of the Government of the Federation or the Government of a Province, such rules may provide for consultation with the appropriate Public Service Commission ; and, subject to any express provision of the Constitution or of the said law, clause (3) shall apply *mutatis mutandis*.

Power to extend functions of Public Service Commissions.

224. Subject to the provisions of Article 223, an Act of Parliament or of a Legislative Assembly may provide for the exercise of additional functions by the Federal Public Service Commission or by the Provincial Public Service Commission as the case may be.

Expenses of Public Service Commissions.

225. The expenses of a Public Service Commission, including the salaries, allowances and pensions payable to or in respect of members of the staff shall be charged—

- (a) in the case of the Federal Public Service Commission, on the Federal Consolidated Fund ;
- (b) in the case of a Provincial Public Service Commission, on the Provincial Consolidated Fund ; and
- (c) in the case of a Joint Public Service Commission, on the Consolidated Funds of the Provinces concerned, in such proportions as may be determined by agreement, or in default of agreement, by the President.

Reports of Public Service Commissions.

226. (1) It shall be the duty of the Federal Public Service Commission to present annually to the President a report on the work done by the Commission, and the President shall cause copies thereof to be laid before both Houses of Parliament.

(2) It shall be the duty of a Provincial Public Service Commission to present annually to the Governor a report on the work done by the Commission, and the Governor shall cause a copy thereof to be laid before the Legislative Assembly.

(3) It shall be the duty of a Joint Public Service Commission to present annually to the Governors of the Provinces concerned a report on the work done by the Commission and the Governors shall cause copies thereof to be laid before the respective Legislative Assemblies.

(4) In any case in which a recommendation made by the Commission has not been accepted, the report shall be accompanied by a memorandum explaining the reasons for not accepting it.

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## PART XI

## ELECTIONS

Composition of Election Commission and Regional Commissions.

227. (1) There shall be an Election Commission consisting of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may determine.

(2) The members of the Election Commission shall be appointed by the President, and if more than one such member are appointed, the Chief Election Commissioner shall be the Chairman.

(3) The President may, after consultation with the Election Commission, from time to time, appoint such Regional Commissioner as he may consider necessary to assist the Election Commission in the performance of its functions under this Part.

Conditions of service of Election Commission, Regional Commissions.

228. (1) Subject to clauses (2) and (3), Parliament may by law determine the conditions of service and tenure of office of the members of the Election Commission, the Regional Commissioners, and the staff of the Election Commission and until so determined rules may be made by the President for those purposes.

(2) The Chief Election Commissioner shall not be removed from his office except for misbehaviour or infirmity of mind or body. If the President has reason to believe that there is cause for the removal of the Chief Election Commissioner, he shall instruct the Advocate-General to move the Supreme Court to appoint a bench of three Judges to enquire into the question. The finding of the Bench shall be reported to the President, and if the finding is that there is cause for removal, the President shall remove the Chief Election Commissioner accordingly.

(3) An Election Commissioner (other than the Chief Election Commissioner) or a Regional Election Commissioner may be removed from his office by the President on the recommendation of the Chief Election Commissioner.

Assistance to the Election Commission.

229. (1) It shall be the duty of all executive authorities, whether in the Federation or in the Provinces, to assist the Election Commission in the discharge of its functions, and for this purpose the President may, on the recommendation of the Election Commissioner, give such directions as he may consider necessary.

(2) When so requested by the Election Commission, it shall be the duty of the Government of the Federation and of a Province to make available to the Commission such staff as may be necessary for the discharge of its functions; and in the event of any disagreement as to what staff is necessary for this purpose the question shall be referred to the President, whose decision thereon shall be final.

Functions of Election Commission.

230. The Election Commission shall be charged with the duty of—

- (a) preparing the electoral rolls for elections to the House of Representatives and the Legislative Assemblies and revising such rolls accordingly;
- (b) organizing and conducting elections to the Senate, the House of Representatives and the Legislative Assemblies; and
- (c) organizing and conducting elections to electoral colleges for the purposes of Article 75.

**\*231. Subject to the provisions of the Constitution—**

(1) Parliament may by law make provision with respect to all matters relating to or in connection with elections to either House of Parliament including the preparation of electoral rolls, the delimitation of constituencies, and all other matters necessary for securing the due constitution of such House.

Power of Parliament and Legislative Assembly to make provision with respect to elections.

(2) The Legislative Assembly of a Province may by law make provision with respect to all matters relating to or in connection with elections to the Legislative Assembly of the Province including the preparation of electoral rolls, the delimitation of constituencies, and all other matters necessary for securing the due constitution of such Assembly.

(3) Nothing in this Article shall have the effect of taking away or abridging any of the powers of the President or of the Election Commission under this Part.

**†232. Notwithstanding anything in the Constitution—**

(1) The validity of any law relating to the delimitation of constituencies made or purported to be made under this Part shall not be questionable in any court.

Bar to interference by court in electoral matters.

(2) No election to either House of Parliament or to the Legislative Assembly of a Province shall be questionable except by an election petition presented to such authority and in such manner as may be provided by or under a law enacted by the appropriate legislature.

\*The Committee considers that clause (2) of this Article is inconsistent with the scheme of the Constitution and is unworkable and should be deleted. It considers that there should be a single Election Act enacted by Parliament for election both for the Federal and Provincial Legislatures. Such Act should deal *inter alia* with the following matters:

(1) *Preparation of Electoral Rolls.*—The Act should fix the date on which various steps should be taken by the election officers concerned, should prescribe forms and establish a system for the determination of objections, etc. If there is one Act the preparation of two sets of rolls can proceed simultaneously and objections can also be heard simultaneously. If there are two Acts the time and expenditure will be doubled; there is also a possibility of confusion through the use of wrong forms or the observance of wrong dates; and indeed it may be impossible for the same officers to take simultaneously different steps required by the two Acts, e.g., attendance for objections for the Federal Roll and initial registration for the Provincial Roll.

(2) *Organisation of Election.*—The Act might prescribe the method of casting votes (e.g., by ballot papers with symbols, coloured ballot boxes, ballot boxes with symbols, etc.) and provide for security precautions, and appointment of returning officers, etc. These matters should either be regulated administratively by the Election Commissioner or covered by a single Act. There should not be different rules for Federal and Provincial elections, especially with an electorate a large proportion of which is illiterate.

(3) *Delimitation of constituencies.*—Though the constituencies will be different, the problems mentioned will be common, since they will relate to such matters as physical features, transport facilities, and the distribution of the various communities. It will be cheaper and more expeditious for the same authority to delimit both Federal and Provincial constituencies. Also there is less risk of gerrymandering if the work is done by an All-Pakistan authority.

(4) *Election petition and corrupt and illegal practices.*—It is obvious that there might not be a single code of laws on these objects, but it is necessary that the rights and duties of candidates and their agents should be the same in all parts of Pakistan, and should be clearly known to all.

†The Committee recommends that there should be only one member of each Election Tribunal, and he should be a Judge of a High Court. The Committee also recommends that no appeal should lie from the order of the Election Tribunal.

**Election  
Tribunals.**

**233.** (1) Any doubt or dispute arising out of or in connection with an election to either House of Parliament or the Legislative Assembly of a Province shall be heard and determined by an Election Tribunal constituted under this Article.

(2) Where the doubt or dispute arises out of or in connection with an election to either House of Parliament the tribunal shall be appointed by the President and where it arises out of or in connection with an election to a Legislative Assembly it shall be appointed by the Governor of the Province.

(3) (a) An Election Tribunal shall consist of not less than three members of whom one shall be designated Chairman by the President, or, as the case may be, the Governor.

(b) The Chairman shall be a person who is or has been a Judge of the Supreme Court or of a High Court or has been a Judge of the Federal Court.

(c) The other members shall be persons who—

(i) have been or are Judges of the Supreme Court or of a High Court, or have been Judges of the Federal Court ; or

(ii) are or have been District and Sessions Judges ; or

(iii) not being persons in categories (i) and (ii), are qualified to be Judges of the High Court :

Provided that not more than one of such members shall be a person who is in category (iii).

**Powers to be  
exercised in  
discretion.**

**234.** The functions of the President and of the Governor of a Province under this Part shall be exercised in their discretion.

## PART XII

## EMERGENCY PROVISIONS

235. (1) The President may issue a Proclamation of Emergency in this Part referred to as "a Proclamation") if he is satisfied that—

Proclamation  
of Emergen-  
cy.

- (a) The security or economic life of Pakistan or any part thereof is threatened or is likely to be threatened by war, external aggression, internal disturbance, or circumstances arising out of a mass movement of population from or into Pakistan ; or
- (b) the financial stability or credit of Pakistan or any part thereof is threatened ; or
- (c) a situation has arisen in which the government of a Province cannot be carried on in accordance with the Constitution.

(2) A Proclamation shall specify the paragraph of clause (1) under which it is issued and shall be laid before both Houses of Parliament.

(3) A Proclamation shall cease to operate at the expiration of two months unless before the expiration of that period it is approved at a joint sitting :

Provided that the period shall be extended until the expiration of thirty days after the first meeting of the new Parliament in either of the following cases, that is to say—

- (a) if before the expiration of the period of two months Parliament is dissolved ; or
- (b) the Proclamation is issued after a dissolution of Parliament but more than thirty days before the first meeting of the new Parliament.

(4) Notwithstanding anything in clause (3) the President may at any time revoke a Proclamation by notification in the Gazette.

(5) The validity of a Proclamation shall not be questioned in any court.

236. While a Proclamation under paragraph (a) of clause (1) of Article 235 is in operation—

Effect of  
Procla-  
mation of  
Emergency  
in respect of  
threat to  
the security  
or economic  
life of  
Pakistan.

- (a) the executive authority of the Federation shall extend to the giving of directions to the Government of any Province as to the manner in which the executive authority of the Province shall be exercised ;
- (b) the legislative power of Parliament shall extend to the making of laws which are within the exclusive power of a Legislative Assembly :

Provided that an Act of Parliament enacted in accordance with this paragraph shall, if not sooner repealed, cease to have effect at the expiration of six months after the Proclamation has ceased to be in operation ; but Parliament may by resolution at a joint sitting extend this period for a further period not exceeding twelve months ;

(c) the President may while Parliament is not sitting promulgate Ordinances for the peace and good government of Pakistan :

Provided that—

- (i) Any such Ordinance, if not sooner withdrawn, shall cease to have effect at the expiration of six weeks after the date of its promulgation unless, before the end of that period, it has been approved at a joint sitting ; and

(ii) Any Ordinance which has been approved at a joint sitting shall, if not sooner revoked, cease to have effect at the expiration of six months after the Proclamation has ceased to be in operation ; but Parliament may by resolution at a joint sitting extend this period for a further period not exceeding twelve months.

(d) When a Proclamation is issued because the President is satisfied that the security of Pakistan is threatened or is likely to be threatened by war or external aggression, Parliament may by Act empower the President, subject to such conditions as may be specified in the Act to issue regulations for the defence of Pakistan. Such regulations shall have the force of law notwithstanding that they suspend or amend any provision of any Act of Parliament (other than the Act empowering the President under this sub-clause) or any Act of a Legislative Assembly, and they may provide for the making of rules empowering the Government of the Federation, or of a Province, or any officer or authority to give effect to the regulations.

Effect of Proclamation of Emergency in respect of threatening the financial stability or credit of Pakistan.

237. While a Proclamation of Emergency under paragraph (b) of clause (1) of Article 235 is in operation—

(1) The executive authority of the Federation shall extend to the giving of directions to the Government of any Province as to the manner in which the executive authority of the Province shall be exercised in so far as that executive authority involves expenditure from the Provincial Consolidated Fund or the borrowing of money on the credit of the Provincial Consolidated Fund and to the giving of such other directions as the President may deem necessary for the purpose.

(2) Notwithstanding any provision of the Constitution that the salary and allowances of any person shall not be varied to his disadvantage during his tenure of office, such salaries and allowances may, while the Proclamation is in operation, be varied to his disadvantage by Act of Parliament.

Effect of Proclamation of Emergency in respect of failure of constitutional machinery in Provinces.

238. While a Proclamation under paragraph (c) of Article 235 is in operation the President may from time to time—

(a) give directions to the Governor of the Province concerned to assume on his behalf all or any of the powers vested in or exerciseable by any Provincial body or authority ; and

(b) make such incidental and consequential orders as may appear to the President to be necessary or desirable ; and such orders may include orders for suspending in whole or in part any provision of the Constitution relating to any Provincial body or authority :

Provided that nothing in this Article shall authorise the President to direct the suspension of any of the powers vested in or exerciseable by a High Court or to suspend in whole or in part the operation of any provision of the Constitution relating to High Courts or to authorise the Governor to assume the powers or functions of a Legislative Assembly under Article 4.

Power of Legislative Assembly to legislate when a Proclamation of Emergency is in force.

239. Nothing in Article 236 shall restrict the power of a Legislative Assembly to make laws, but any provision of any Act of the Legislative Assembly which is repugnant to any Act of Parliament enacted or any Ordinance promulgated or regulation made under that Article shall, so long as the said Act of Parliament or Ordinance remains in operation, be void.

240. (1) While a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights guaranteed by Part III as may be specified in the order and all proceedings pending for the enforcement of the rights so specified shall remain suspended for the period during which the Proclamation is in operation or for such shorter period as may be specified in the order and such declaration shall have effect accordingly.

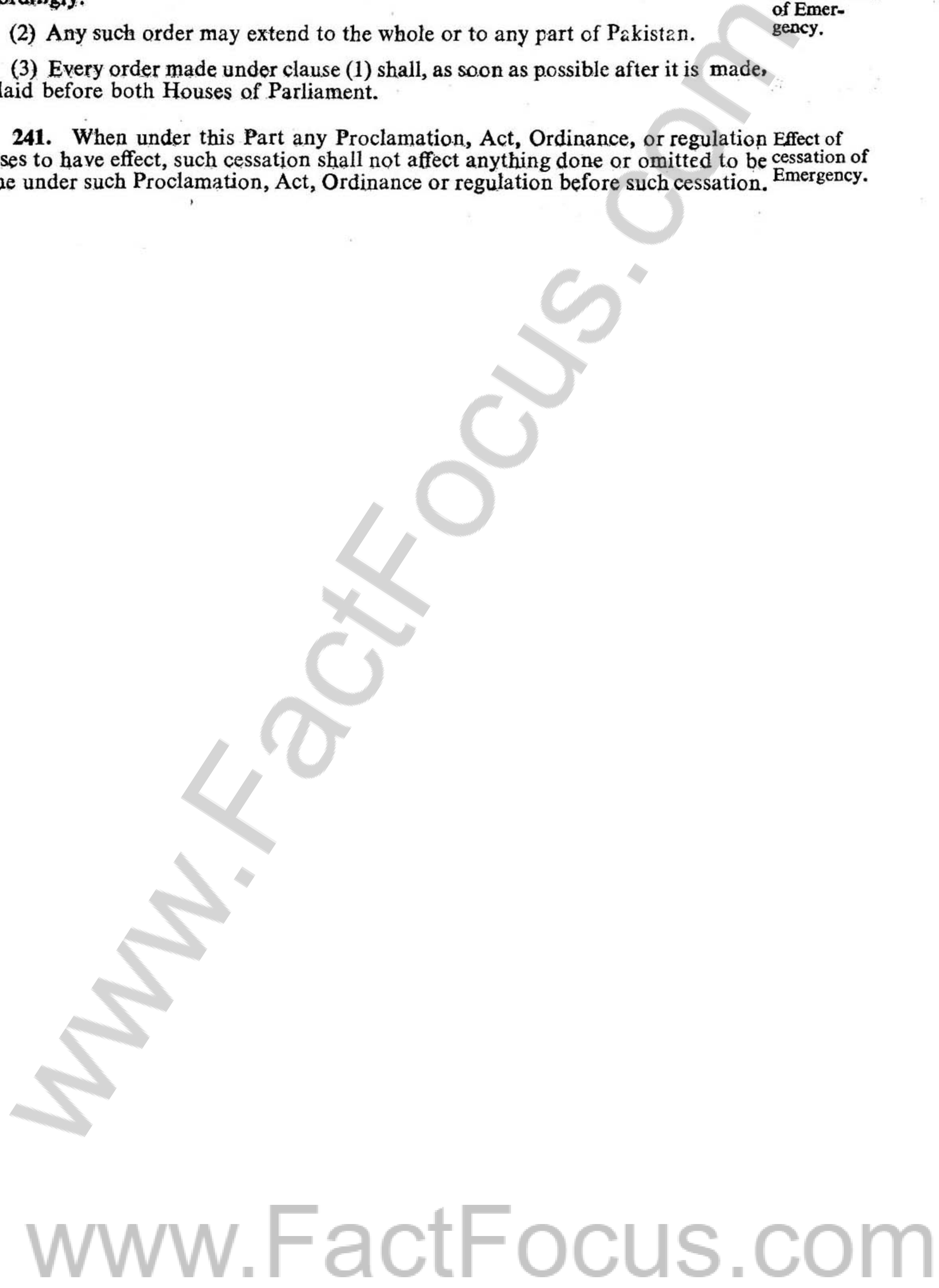
Suspension of Fundamental Rights during the enforcement of Proclamation of Emergency.

(2) Any such order may extend to the whole or to any part of Pakistan.

(3) Every order made under clause (1) shall, as soon as possible after it is made, be laid before both Houses of Parliament.

241. When under this Part any Proclamation, Act, Ordinance, or regulation ceases to have effect, such cessation shall not affect anything done or omitted to be done under such Proclamation, Act, Ordinance or regulation before such cessation.

Effect of cessation of Emergency.



## PART XIII

## PROPERTY, CONTRACTS AND SUITS

Succession to property and assets, rights and liabilities and obligations in relation to the Provinces.

**242.** (1) All property and assets which immediately before Constitution Day were vested in Her Majesty for the purposes of the Government of the Federation shall as from that date vest in the Government of the Federation, unless they were lands or buildings situated in a Province and were used for purposes which after Constitution Day will be purposes of the Government of the Province, in which case they shall vest on that date in the Government of the Province.

(2) All property and assets which immediately before Constitution Day were vested in Her Majesty for the purposes of the Government of a Province shall as from that date vest in the Government of the Province unless they were used for purposes which after constitution Day will be purposes of the Government of the Federation, in which case they shall vest in the Government of the Federation.

(3) All rights, liabilities and obligations of the Federation and of each Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Government of the Federation and of the Government of each corresponding Province.

Succession to property and assets, rights and liabilities and obligations in relation to the Acceded State or Rulers hereof.

**243.** (1) All property and assets which immediately before Constitution Day were vested in an Acceded State or in the Ruler thereof shall, if the purposes for which they were held have under the Constitution become the purposes of the Federation, vest in the Government of the Federation.

(2) Subject to Clause (1) all property and assets which immediately before Constitution Day were vested in an Acceded State or the Ruler thereof shall—

(a) in the case of the State of Bahawalpur or the State of Khairpur, vest in the Government of the respective State; and

(b) in the case of any other Acceded State, vest in the Government of the Province of which that State is a Special Area.

(3) This Article shall not apply to the private property of the Ruler.

Property accruing by escheat or lapse or *bona vacantia*.

**244.** Any property which, but for the enactment of the Constitution, would have accrued to Her Majesty by escheat or lapse, or as *bona vacantia* for want of a rightful owner, shall, if it is property situate in a Province, vest in the Government of that Province and shall in any other case vest in the Government of the Federation:

Provided that any property which at the date when it would so have accrued to Her Majesty was in the possession or under the control of the Government of the Federation or the Government of a Province shall, according as the purposes for which it was then held were purposes of the Federation or of a Province, vest in the Government of the Federation or the Government of that Province.

Power to acquire and dispose of property and make contracts.

**245.** (1) The executive authority of the Federation and of each Province shall extend to the purchase or acquisition of property for their respective purposes and the property so acquired shall vest in the Government of the Federation and in the Government of the Province as the case may be.

(2) The executive authority of the Federation and of each Province shall extend to the transfer by grant, sale, mortgage or otherwise of property vested in the Government of the Federation or the Province, as the case may be, and to the making of contracts.

(3) All lands, minerals and other things of value underlying the ocean within the territorial waters of Pakistan shall vest in the Government of the Federation.

**246.** (1) All contracts made in the exercise of the executive authority of the Federation or of a Province shall be expressed to be made by the President or the Governor of the Province, as the case may be, and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the President or the Governor by such person and in such manner as he may direct or authorise.

(2) Neither the President nor the Governor shall be personally liable in respect of any contract or assurance made or executed in pursuance of any provision of the Constitution or for the purposes of any enactment relating to the Federal or a Provincial Government heretofore in force, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

**\*247.** (1) The Government of the Federation may sue and be sued by the name of the Federation and the Government of a Province may sue and be sued by the name of the Province.

(2) Neither the President nor the Governor of a Province shall be answerable in any court for the exercise of the powers and the performance of the duties of his office or for any act done or purporting to be done by him in the exercise of those powers and the performance of those duties.

(3) Nothing in this Article or in any law shall prevent the institution or continuance of any legal proceedings against the President or the Governor of a Province in respect of any civil or criminal liability incurred by him by reason of any act or omission in his personal capacity, but all such proceedings initiated during his tenure of office shall be instituted in the Supreme Court and all such proceedings initiated before his assumption of office shall on such assumption stand transferred to the Supreme Court :

Provided that, if the Supreme Court is satisfied that any proceedings initiated during his tenure of office are false and frivolous or vexatious it may impose on the plaintiff or complainant a penalty not exceeding five years' rigorous imprisonment or a fine or both.

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\*The Committee recommends that punishment specified in clause (3) of this article be altered to "not exceeding two years rigorous imprisonment or a fine or both", as the penalty of five years is too heavy.



## PART XIV

## LANGUAGE

Language.

248. (1) The official languages of Pakistan shall be Urdu and Bengali and such other Provincial languages as may be declared to be official languages by the President on the recommendation of the Legislative Assembly concerned.

(2) A member of either House of Parliament, or any person authorised by the Constitution to speak therein, may address that House in Urdu, Bengali or English.

(3) For examinations for the services of the Federation, all Provincial languages, including the official languages, shall be treated equally.

(4) Notwithstanding anything in clause (1)—

(a) for a period of twenty years from Constitution Day, English shall continue to be used for all official purposes for which it was used in Pakistan immediately before Constitution Day ;

(b) Parliament may provide by law for the use of English, for such purposes as may be specified by law, after the expiry of the said period of twenty years.

(5) A Commission shall be appointed at the expiration of ten years from Constitution Day to make recommendations for the replacement of English by the official languages.

(6) It shall be the duty of the State as defined by Article 32 to take all possible measures for the development and growth of a national language.

(7) The authorities or persons in whom is vested the control of recognised secondary schools shall provide for the teaching of Arabic, Urdu and Bengali in every such school; and every pupil in every such schools shall be required to study one of those languages and shall, if he so desires, be entitled to study two of these languages, in addition to the language used as medium of instruction.

It shall be the duty of the Government of the Province—

(a) to secure the enforcement of the provisions of this clause; and

(b) to provide such financial assistance as may be required to give effect to this clause.

## PART XV

## MISCELLANEOUS PROVISIONS

249. (1) The President shall set up an organisation for making the teachings of Islam known to the people and for *Amr-bil-maruf* and *Nahi-anil-munkar*. The Organization for *Amr-bil-Maruf* and *Nahi Anil Munkar*.

(2) Notwithstanding the provisions of the Constitution relating to Consolidated Funds the proceeds of a special tax to be levied on Muslims may be specifically appropriated in payment of the expenses of the organisation established under clause (1). Privy purse of the Ruler of Acceded States.

250. (1) There shall be paid to the Ruler of each Acceded State such amount of privy purse or such other allowances as may be determined by the President after consultation with the Ruler to whom they are payable; and when a Ruler exercises the functions of a Governor in relation to his State he may be paid such further emoluments and allowances and shall be entitled to such other rights and privileges as may be determined by the President.

(2) Until the privy purse or other allowances are determined by the President under clause (1) there shall be paid to the Ruler such privy purse and other allowances and he shall be entitled to such rights and privileges as may have been prescribed under any agreement in force immediately before Constitution Day.

(3) The privy purse, emoluments and allowances payable under this Article shall be charged in the Consolidated Fund of the appropriate Province.

*Explanation.*—In respect of the State of Bahawalpur or the State of Khairpur “the appropriate Province” shall be that Province and in respect of any other Acceded State it shall be the Province of which that State is a Special Area.

251. Every amendment to the Constitution and every Act of Parliament shall be published in the *Gazette of Pakistan*, and every Act of a Provincial Legislative Assembly shall be published in the Official Gazette of the Province. Publication of Laws.

**PART XVI**  
**TRANSITIONAL PROVISIONS**

Continuance  
in force of  
existing laws.

**252.** Notwithstanding the repeal of the enactments mentioned in Article 266 but subject to the provisions of the Constitution, all laws including Ordinances, Orders-in-Council, Orders, Rules, Bye-laws, Regulations, Notifications and other legal instruments in force in Pakistan immediately before Constitution Day and not in consistent with Constitution shall, subject to the limitations and conditions applicable to them, continue to be in force until altered, repealed or amended by the competent legislature or other competent authority.

Adoption  
of existing  
laws.

**253.** For the purpose of bringing the provisions of any law in force immediately before Constitution Day into accord with the provisions of Constitution, the President may during the first two years from Constitution Day by order make such adaptations and modifications, whether by way of amendment or repeal in such law, as he may deem necessary or expedient :

Provided that every such order shall be laid for approval before Parliament within three months of the passing thereof, and if the order is passed while Parliament is in session, it shall be laid before Parliament before the end of that session, and the Parliament shall be competent to alter, amend or repeal the order.

Provisional  
Parliament.

**254.** (1) Until immediately before the first meeting of the first Parliament constituted in accordance with the provisions of Constitution, the Constituent Assembly shall be the Provisional Parliament of Pakistan and shall have all the powers, rights, and privileges and may exercise of all the functions conferred by the Constitution on Parliament, on either House thereof, and on a joint sitting, but subject to such adaptations and modifications in the provisions of the Constitution as may be necessary.

(2) Without prejudice to the generality of clause (1)—

- (a) The provisions of Articles 71 to 79, and 82 to 84 relating to the composition of the Houses of Parliament shall not apply, but any casual vacancy in the Provisional Parliament shall be filled in accordance with the rules in force in relation to the filling of such vacancies in the Constituent Assembly immediately before Constitution Day.
- (b) The provisions relating to the dissolution of Parliament in Article 85 and to the sessions of Parliament in Article 86 shall not apply, but the President shall have power to fix the dates of the election of members to both Houses of Parliament.
- (c) The provisions relating to disagreements between the two Houses of Parliament in Articles 87 and 91 shall not apply, and a Bill which has been passed by the Provisional Parliament shall be deemed to have been passed by both Houses.
- (d) Article 89 shall not apply and any reference to a joint resolution shall be read as a reference to a resolution of the Provisional Parliament.
- (e) Articles 104 and 105 relating to joint sittings shall not apply.
- (f) The persons holding office as President and Deputy President of the Constituent Assembly immediately before Constitution Day shall hold office as Speaker and Deputy Speaker respectively of the Provisional Parliament, and Article 109 shall stand modified accordingly.
- (g) Until the Provisional Parliament otherwise provides, the Rules and Standing Orders of the Constituent Assembly, sitting as Federal Legislature, in operation immediately before Constitution Day shall apply to the Provisional Parliament with such additions, modifications and adaptations as the Speaker of the Provisional Parliament may consider necessary.

(3) Nothing in this Article shall authorise the Provisional Parliament to amend the Constitution otherwise than in accordance with Article 259.

**255.** (1) The provisions of this Article shall apply until a President of Pakistan is elected in accordance with Part V of this Constitution. President in the transitional period.

(2) After the enactment of the Constitution and before Constitution Day, the Constituent Assembly shall, in accordance with the rules set out in paragraph 2 of the Sixth Schedule, elect a person to serve as President during the transitional period.

(3) As often as there is a vacancy in the office of the President during the transitional period, Article 47 shall apply and the Acting President thereunder take steps to fill the vacancy in accordance with the aforesaid rules.

(4) For the purposes of this Article the expression "the transitional period" means the period beginning on Constitution Day and ending on the day on which the President elected in accordance with Part V of the Constitution assumes office.

**256.** (1) All persons holding offices all courts of civil, criminal and revenue jurisdiction and all legislative executive, judicial and ministerial authorities exercising functions in Pakistan immediately before Constitution Day, shall, subject to the provisions of the Constitution, continue to exercise thereafter their respective jurisdiction and functions as if those offices, courts and authorities had been constituted under the corresponding provisions of the Constitution. Courts, authorities and officers to continue to function subject to the provisions of the Constitution.

(2) In particular and without prejudice to the foregoing provisions of this Article, the persons holding offices, and the courts and authorities specified below, shall continue to discharge their respective functions in the manner indicated in respect of each of them, namely—

- (a) Persons holding office as Ministers and Deputy Ministers and Parliamentary Secretaries for the Federation and Ministers and Parliamentary Secretaries for the Provinces immediately before Constitution Day shall continue to hold their respective offices upon the same terms and conditions as were applicable to them immediately before that Day, until they cease to hold office in accordance with the provisions of this Constitution.
- (b) The Chief Justice and other Judges of the Federal Court holding office immediately before Constitution Day shall become the Chief Justice or as the case may be Judges of the Supreme Court and shall hold their respective offices upon the same terms and conditions as were applicable to them immediately before Constitution Day.
- (c) The Chief Justices and other Judges of the High Courts holding office immediately before Constitution Day shall continue to hold their respective offices upon the same terms and conditions as were applicable to them immediately before Constitution Day.
- (d) Every court of civil, criminal or revenue jurisdiction and every person exercising judicial, executive or revenue authority immediately before Constitution Day shall continue to exercise, subject to the provisions of this Constitution, the same jurisdiction and authority ; and every person holding any public office immediately before Constitution Day shall continue, subject to the provisions of this Constitution, to hold the same office upon the same terms and conditions as were applicable to him immediately before Constitution Day.
- (e) The Chairman and members of the Federal Public Service Commission and of Provincial Public Service Commissions holding office immediately before Constitution Day shall continue to hold their respective offices thereafter upon the same terms and conditions as were applicable to them immediately before Constitution Day until the expiration of the terms of their offices as determined by law and the rules under which they were appointed.
- (f) The person holding office as the Auditor-General of Pakistan immediately before Constitution Day shall become the Comptroller and Auditor-General of Pakistan upon the same terms and conditions as were applicable to him immediately before Constitution Day.

- (g) Every person holding office as the Governor of a Province immediately before Constitution Day shall continue to hold that office thereafter upon the same terms and conditions as were applicable to him immediately before Constitution Day.
- (h) In every Province the body functioning as the Provincial Legislature immediately before Constitution Day shall function as Legislative Assembly thereafter until a Legislative Assembly is constituted in accordance with the Constitution and the persons holding office as Speaker and Deputy Speaker of every such Legislature immediately before Constitution Day shall continue to hold their respective offices upon the same terms and conditions as were applicable to them immediately before Constitution Day.

Provisions as to proceedings pending in and jurisdiction the Federal Court.

**257.** All suits, appeals and proceedings, civil or criminal, pending in the Federal Court immediately before Constitution Day shall on such day stand transferred to and be deemed to be pending before the Supreme Court ; and the judgements and orders of the Federal Court delivered or made before Constitution Day shall have the same force and effect as if they had been delivered or made by the Supreme Court.

(2) Notwithstanding the repeal of the enactments mentioned in Article 266, the Supreme Court shall have and may exercise the jurisdiction vested in the Federal Court immediately before Constitution Day.

Provisions as to decisions of the Constituent Assembly and the Legislative Assemblies taken before the Constitution Day.  
Removal of difficulties.

**258.** Any decision taken in the Constituent Assembly of Pakistan or in the Legislature of a Province in respect of any matter brought before it before Constitution Day unless altered by the Provisional Parliament, or as the case may be by the Legislative Assembly of the Province, shall have the same effect as if that decision had been taken by the Provisional Parliament or as the case may be by the Legislative Assembly of the Province concerned constituted under this Constitution.

**259.** The Provisional Parliament may, for the purpose of removing any difficulties in relation to the transition from the provisions of the Government of India Act, 1935, and the Indian Independence Act, 1947, to the provisions of this Constitution, by a resolution direct that this Constitution shall during such period as may be specified in the resolution have effect subject to such adaptations whether by way of modification, addition or omission as it may deem necessary or expedient:

Provided that any adaptation made in the Constitution under this Article shall, unless sooner repealed by Parliament by passing a resolution in that behalf, lapse and shall cease to form part of the Constitution after the expiry of twelve months from the first meeting of the first Parliament is under the provisions of the Constitution.

“Federation” to be substituted for “Federation of Pakistan” in legal proceedings.

**260.** If any legal proceeding in which the Federation of Pakistan is a party is pending before in any Court immediately before Constitution Day the ‘Federation’ shall be substituted for the ‘Federation of Pakistan’ in that proceeding.

Provisions as to financial matters.

**261.** (1) The provisions of the Constitution relating to the Federal Consolidated Fund or a Provincial Consolidated Fund and the withdrawal of moneys from either of such Funds shall not apply in relation to moneys received or raised or expenditure incurred by the Government of the Federation or the Government of a Province in the financial year which includes Constitution Day ; and notwithstanding anything in this Constitution—

- (a) any expenditure incurred during that financial year shall be deemed to be authorised if it was specified in a schedule of authorised expenditure authenticated by the Governor-General of Pakistan or the Governor of the corresponding Province in accordance with the Government of India Act, 1935 ;

- (b) a supplementary statement of expenditure in respect of that financial year may be laid before the House of Representatives or the Legislative Assembly in accordance with this Constitution, but Article 99 or Article 152 respectively shall not apply, and the expenditure may be authenticated by the President or the Governor as if the Government of India Act, 1935, applied with the necessary modifications ;
- (c) Any excess expenditure in the financial year which includes Constitution Day, or in any preceding financial year, may be authorised by Act of Parliament or Act of the corresponding Legislative Assembly, and any Bill for that purpose shall be deemed to be a Money Bill.

(2) In relation to accounts which have not been completed or audited before Constitution Day, the Comptroller and Auditor-General shall exercise the like functions as if he were Auditor-General of the Dominion of Pakistan, but reports relating to the accounts of the Federal Government shall be submitted to the President, who shall cause them to be laid before the House of Representatives and reports relating to the accounts of a Province shall be submitted to the Governor, who shall cause them to be laid before the Legislative Assembly.

(3) Until Parliament otherwise provides, the Comptroller and Auditor-General shall have the like powers and duties in relation to the accounts of an Acceded State as the Auditor-General had in relation to the accounts of a Province before Constitution Day.

262. Subject to the provisions of the Constitution, every person who was immediately before Constitution Day a servant of the Crown shall on Constitution Day become a servant of Pakistan.

Servants of the Crown to become servants of Pakistan.

263. Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or the Secretary of State in Council to a civil service of the Crown in India, continues after Constitution Day to serve under the Government of the Federation or the Government of a Province, shall be entitled to receive from the Government of the Federation and the Government of any Province which he is from time to time serving, the same conditions of service as regards salary, allowances, leave and pensions and the same rights in disciplinary matters, or rights as similar thereto as the changed circumstances may permit, as he was entitled to receive from the Government of India and the Government of an Indian Province immediately before the 15th August, 1947.

Transitional provision as to conditions of service.

264. (1) Until other provision is made in accordance with this Constitution, the All-Pakistan Services in existence immediately before Constitution Day shall be deemed to be All-Pakistan Services created under Article 218.

Provision as to All-Pakistan Services.

(2) The rules provided under Article 216 shall, so far as may be possible, provide that every person to whom this Article applies shall have the same right of appeal as he would have had immediately before Constitution Day, and to the same authorities, in respect of any order which—

- (i) punishes or formally censures him ; or
- (ii) alters or interprets to his disadvantage any rule by which his conditions of service are regulated ; or
- (iii) terminates his appointment otherwise than on his reaching the age fixed for superannuation.

265. This Article and Articles 6 and 255 and paragraph 2 of the Sixth Schedule shall come into force at once, and the remaining provisions shall come into force on Constitution Day.

Commencement.

266. The Government of India Act, 1935, and the Indian Independence Act, 1947, together with all enactments amending or supplementing these Acts, are hereby repealed.

267. This Constitution may be called the Constitution of the Islamic Republic of Pakistan.

## FIRST SCHEDULE

## PART I

Rules for the  
election of a  
President.

1. (1) When, owing to a vacancy or an impending vacancy in the office of President, the election of a President becomes necessary, the President or Acting President shall fix a date for the holding of a Joint Sitting at which the election shall take place, and the Secretary to the Senate shall send to each member of both Houses of Parliament not less than fifteen days' notice of the date so fixed.

(2) At any time before noon on the day preceding the date so fixed, any member of either House may nominate a person for election by delivering to the Secretary to the Senate a nomination paper signed by himself as proposer and by another member as seconder and stating—

(a) the name of the person nominated ; and

(b) that the proposer has ascertained that such person is willing to serve as President, if elected.

(3) Any person who has been nominated may withdraw his candidature at any time before the Joint Sitting proceeds to hold the election.

(4) The Joint Sitting shall be presided over by the Chancellor, the Speaker, the Deputy Chancellor, or the Deputy Speaker, in that order, if present and not a candidate for election as President ; and if none of them is present or capable of presiding the Joint Sitting shall elect to the Chair a Member who is not a candidate for election as President :

Provided that a person who is disqualified from presiding because he is a candidate for election shall not on that ground only be disqualified from being present or exercising his right to vote.

(5) The Chairman shall decide all questions relating to the validity of a nomination, and his decision shall be final.

(6) On the date fixed for the election, the Chairman shall announce at the Joint Sitting the names of the persons who have been duly nominated and have not withdrawn their candidatures, together with the names of their proposers and seconders.

(7) If there is only one such candidate, the Chairman shall declare that candidate to be duly elected. If there be more than one such candidate, the Joint Sitting shall proceed to elect a President.

(8) If there are only two such candidates, the Chairman shall declare the candidate who obtains the majority of votes to be elected if that majority includes at least thirty per cent. of the total number of members from the Eastern Region and at least thirty per cent. of the total number of members from the Western Region.

(9) If more than two candidates have been nominated and at the first vote no candidate obtains the majority required by the Constitution, the candidate who has obtained the smallest number of votes shall be excluded from the election, and voting shall proceed, the candidate obtaining the smallest number of votes at each vote being excluded from the election until one candidate obtains the majority required by the Constitution or until only two candidates remain and neither obtains that majority. If at any vote a candidate obtains the majority required by the Constitution he shall be declared to be elected.

(10) Where at any vote two or more candidates obtain an equal number of votes and one of them has to be excluded under sub-paragraph (9), the determination of the question as to which of the candidates whose votes are equal is to be excluded shall be by the drawing of lots.

(11) If at the end of voting no candidate has the majority required by the Constitution the Joint Sitting shall be adjourned for such period as may be decided by the Joint Sitting, and the procedure laid down by these sub-paragraphs (including the procedure for the nomination of candidates) shall be repeated; and so on until a person is declared to be elected.

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## PART II

**Residence.** 2. For the purposes of Articles 77 and 133 a person shall be deemed to reside in a constituency if he has in that constituency a place of residence in which he sometimes sleeps; and he shall not be deemed not to be resident merely because he is absent from it or has a place of residence in another constituency, if he is at liberty to return to that place at any time and has not abandoned his intention of returning:

Provided that—

- (1) Any person who holds the office of Minister, Deputy Minister or Parliamentary Secretary in the Federation or a Province, or Chancellor or Deputy Chancellor, or Speaker or Deputy Speaker of the House of Representatives or of a Legislative Assembly, shall be deemed, during any period in which he holds such office, to reside in the constituency in which he would have been resident if he had not held such office;
- (2) any person who holds a public office, or who is employed by the Government of the Federation or of a Province, or any other service of Pakistan or who is a member of the armed services of the Federation, shall be deemed, during any period in which he holds such office or is so employed, to reside in the constituency in which he would otherwise have been resident;
- (3) where a person becomes qualified to have his name entered in the electoral roll of a constituency under this proviso his wife also, if otherwise qualified, shall become so qualified.

**Qualifications for Members of the Senate.**

3. (1) A person shall be qualified for election to the Senate if he—
  - (a) is a citizen;
  - (b) has attained the age of thirty years;
  - (c) is able to read and write in some language; and
  - (d) is an elector for a constituency in the Province from which he seeks election.

(2) For the purposes of this paragraph and paragraph 4 “constituency in the Province” means a constituency for the election of a member to the Legislative Assembly of that Province:

Provided that—

- (a) In the North-West Frontier Province or Baluchistan Province, a person shall be qualified if he is either an elector of a constituency for the election of a member to the Legislative Assembly of that Province or an elector for a constituency in that Province for the election of a member to the House of Representatives; and
- (b) In Karachi, a person shall be qualified if he is an elector for a constituency in Karachi for the House of Representatives.
- (c) Nothing in this paragraph or paragraph 4 shall prevent a person from being qualified for election if he is qualified to be a candidate under the provisions of the Second Schedule.

**Qualifications for Members of the House of Representatives.**

4. A person shall be qualified for election to the House of Representatives if he—
  - (a) is a citizen;

- (b) has attained the age of twenty-five years ;
- (c) is able to read and write in some language ; and
- (d) is an elector for a constituency in the Province from which he seeks election.

5. (1) A person shall be disqualified from being elected to or being a member of the Senate or the House of Representatives or a Legislative Assembly if—

Disqualifica-  
tion for  
Parliament  
or a Legisla-  
tive  
Assembly.

- (a) he is of unsound mind and stands so declared by a competent court ; or
- (b) he is an undischarged insolvent ; or
- (c) he holds an office of profit in the Service of Pakistan ;

Provided that if he is a Minister, Deputy Minister or Parliamentary Secretary in the Federation or a Province :

Provided further that for the purposes of membership of either House of Parliament an Act of Parliament, and for the purposes of membership of a Legislative Assembly an Act of that Assembly, may declare any other office of profit not to be an office of profit for the purposes of this subparagraph ; or

- (d) he has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to be guilty of any offence or corrupt or illegal practice relating to elections which has been declared by law to be an offence or practice entailing disqualification for membership of Parliament or a Legislative Assembly or a Provincial Legislature, unless such period has elapsed as may be specified in that behalf by the provisions of that law ; or
- (e) having been nominated as a candidate for election to the House of Representatives or a Legislative Assembly or a Provincial Legislature, or having acted as election agent to any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by law :

Provided that this disqualification shall not begin to take effect until one month after the date on which the return ought to have been lodged or until such time as the President, in the case of a return relating to an election to the House of Representatives, or the Governor, in the case of a return relating to an election to a Legislative Assembly, may allow ;

Provided also that this disqualification shall cease when—

- (i) five years have elapsed since the date on which the returns ought to have been lodged ; or
- (ii) the disqualification is removed by the President (in the case of a return relating to an election to the House of Representatives) or by the Governor (in the case of a return relating to an election to the Legislative Assembly or to a Provincial Legislature).
- (f) he has been dismissed for misconduct from the Service of the Crown in Pakistan or the Service of Pakistan on the recommendation of the Supreme Court or a Public Service Commission :

Provided that this disqualification shall cease after the expiry of five years but at any time within that period the disqualification may be removed by the Governor (in case of a dismissal from a Provincial service) or the President (in any other case).

- (g) he has ceased to be a citizen or has voluntarily acquired the citizenship of a foreign State, or has made any declaration of allegiance or adherence to a foreign State.

(2) A person shall also be disqualified from being elected to or being a member of the Senate or the House of Representatives or a Legislative Assembly if he has been convicted of any offence involving moral turpitude and sentenced to transportation for life or imprisonment for not less than two years :

Provided that this disqualification shall cease after the expiry of a period of five years from his release ; and

Provided further that an objection that a candidate is disqualified under this sub-paragraph shall not be entertained by a returning officer but may be enquired into by any other competent authority.

Disqualifications for elector.

6. A person shall not be registered as an elector if—

- (a) he is of unsound mind and stands so declared by a competent court ; or
- (b) he is an undischarged insolvent ; or
- (c) he has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to be guilty of any offence or corrupt or illegal practice relating to elections which has been declared by law to be an offence or practice entailing disqualification as an elector.

Secretariat of Parliament.

7. (1) Each House of Parliament shall have its own secretarial staff, which shall be under the control of the House concerned.

(2) Nothing in sub-paragraph (1) shall prevent the employment of staff common to the Senate and the House of Representatives. Such staff shall be under the control of a Joint Sitting.

(3) The conditions of service of the secretarial staff of Parliament, including those relating to appointments, transfers, dismissal, promotion and disciplinary control, shall be similar to those applying to the staff of the Government of the Federation ; but in the application of any rules to the staff of the House of Representatives any reference to the President or to a Minister shall be read as a reference to the Speaker, and in any other case any reference to the President or to a Minister shall be read as a reference to the Chancellor.

(4) Until action is taken under this paragraph, the staff of the Constituent Assembly shall be considered to be staff common to the Senate and the House of Representatives and shall be employed on conditions of service not less favourable than those on which they were employed immediately before the dissolution of the Constituent Assembly ; and recommendations from the Public Service Commission relating to them shall be forwarded to the Chancellor as Chairman of the Joint Sitting, who shall dispose of such cases after consultation with the Speaker of the House of Representatives.

8. (1) The expenditure of each House of Parliament shall be controlled by that House, acting on the advice of its Finance Committee. Finance Committee of Senate and House of Representatives.

(2) The Chancellor or the Speaker, as the case may be, shall be Chairman of the Finance Committee, and the Minister of Finance shall be a member thereof and the other members shall be elected by the Senate or the House of Representatives as the case may be.

(3) The Finance Committee may make rules relating to its own procedure.

9. (1) Appointments of officers and servants of the Comptroller and Auditor-General's Department shall be made by the Comptroller and Auditor-General, or by such other officer as he may direct, and shall be made in accordance with rules framed by the Comptroller and Auditor-General and approved by the President. Audit Staff.

(2) Subject to the provisions of any Act of Parliament the conditions of service of officers and servants of the Comptroller and Auditor-General's Department shall be such as may be prescribed by rules made by the Comptroller and Auditor-General :

Provided that the rules in so far as they relate to salaries, allowances, leave or pension shall require the previous approval of the President.

10. The privileges of Parliament and of its members shall be determined by Act of Parliament ; and until such Act is passed the privileges shall be, subject to the provisions of the Constitution, the same as the privileges of the Constituent Assembly, functioning as Federal Legislature, and its members immediately before Constitution Day. Privileges of Parliament.

**PART III**  
**FORMS OF OATH**

**1. Oath of President.**

"I, ....., do swear in the name of Allah that I will faithfully discharge the duties of the office of President of Pakistan according to law, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will and that, in my public and private life, I will endeavour to fulfil the obligations and duties enjoined by Islam."

**2. (a) Oath of Prime Minister and other Ministers of the Government of the Federation. (In the case of a Muslim).**

"I, ....., do swear in the name of Allah that I will faithfully discharge the duties of the office of Prime Minister (or Minister) in the Government of the Federation, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will and that, in my public and private life I will endeavour to fulfil the obligations and duties enjoined by Islam."

**(b) Oath of Prime Minister and other Ministers of the Government of the Federation. (In case of a Non-Muslim).**

"I, ....., do solemnly affirm that I will faithfully discharge the duties of the office of Prime Minister (or Minister) in the Government of the Federation, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, and that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will."

**Oath of Secrecy for Prime Minister and other Ministers.**

"I, ....., do swear in the name of Allah (or solemnly affirm) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Prime Minister (or Minister) in the Government of the Federation, except as may be required for the due discharge of my duties as such Prime Minister (or Minister)."

**3. (a) Oath of Member of Parliament. (In the case of a Muslim).**

"I, ....., having been elected a Member of Parliament, do swear in the name of Allah, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will faithfully discharge the duties upon which I am about to enter, and that, in my public and private life, I will endeavour to fulfil the obligations and duties enjoined by Islam."

**(b) Oath of Member of Parliament. (In the case of a Non-Muslim).**

"I, ....., having been elected a Member of Parliament, do solemnly affirm that I will bear true faith and allegiance to the Islamic Republic of Pakistan, and that I will faithfully discharge the duties upon which I am about to enter."

**4. (a) Oath of Governor. (In the case of a Muslim).**

"I, ....., do swear in the name of Allah that I will faithfully discharge the duties of the office of Governor of the Province

of ..... according to law, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will and that, in my public and private life, I will endeavour to fulfil the obligations and duties enjoined by Islam.”

**(b) Oath of Governor. (In the case of a Non-Muslim).**

“I, ....., do solemnly affirm that I will faithfully discharge the duties of the office of Governor of the Province of ..... according to law, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, and that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will.”

**5. (1) Oath of Chief Minister and other Ministers of Provinces. (In the case of a Muslim).**

“I, ....., do swear in the name of Allah that I will faithfully discharge the duties of the office of Chief Minister (or Minister) in the Government of the Province of.....that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will and that, in my public and private life, I will endeavour to fulfil the obligations and duties enjoined by Islam.”

**(2) Oath of Chief Minister and other Ministers of Provinces. (In case of a Non-Muslim).**

“I, ....., do solemnly affirm that I will faithfully discharge the duties of the office of Chief Minister (or Minister) in the Government of the Province of.....that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will preserve, protect and defend the Constitution, and that I will do right to all manner of people according to the laws of Pakistan without fear or favour, affection or ill-will.”

**Oath of Secrecy for Chief Minister and Ministers of Provinces.**

“I, ....., do swear in the name of Allah (or solemnly affirm) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or shall become known to me as Chief Minister (or Minister) in the Government of the Province of..... except as may be required for the due discharge of my duties as such Chief Minister (or Minister).”

**6. (1) Oath of Members of Legislative Assembly. (In the case of a Muslim).**

“I, ....., having been elected a Member of the Legislative Assembly of the Province of....., do swear in the name of Allah that I will bear true faith and allegiance to the Islamic Republic of Pakistan, that I will faithfully discharge the duties upon which I am about to enter and that, in my public and private life, I will endeavour to fulfil the obligations and duties enjoined by Islam.”

**(2) Oath of Members of Legislative Assembly. (In the case of a Non-Muslim).**

“I, ....., having been elected a Member of the Legislative Assembly of the Province of....., do solemnly affirm that I will bear true faith and allegiance to the Islamic Republic of Pakistan, and that I will faithfully discharge the duties upon which I am about to enter.”

**7. Oath of Comptroller and Auditor-General.**

“I, ....., do swear in the name of Allah (or solemnly affirm) that I will bear true faith and allegiance to the Islamic Republic of Pakistan, and that I will faithfully perform the duties of the office of Comptroller and Auditor-General to the best of my ability, knowledge and judgment.”

**8. Oath of Chief Justice and Judges of Supreme Court.**

“I, ....., having been appointed Chief Justice (of Pakistan or Judge of the Supreme Court), do swear in the name of Allah (or solemnly affirm) that I will faithfully perform the duties of the office to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, and that I will preserve, protect and defend the Constitution and Laws of Pakistan.”

**9. (1) Oath of Chief Justice and Judges of High Courts.**

“I, ....., having been appointed Chief Justice|Judge of the High Court of....., do swear in the name of Allah (or solemnly affirm) that I will faithfully perform the duties of the office to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will, that I will bear true faith and allegiance to the Islamic Republic of Pakistan, and that I will preserve, protect and defend the Constitution and Laws of Pakistan.”

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**PART IV**  
**Composition of Legislative Assemblies.**  
**TABLE OF SEATS**

Province	Total Seats	General Seats	Seats for Scheduled Castes	Seats for Muslims	Seats for Christians (or, in the Punjab, Christians and Anglo-Pakistanis)	Seats for Buddhists	University Seats	Seats for Women		
								General	Muslims	Scheduled Castes
1	2	3	4	5	6	7	8	9	10	11
East Bengal Province ...	309	30	36	228	1	2	...	1	9	2
The Punjab Province ...	197	1	...	186	4	...	1	...	5	...
Sind Province ...	111	10	...	98	...	...	...	...	3	...
The North-West Frontier Province	87	1	...	84	...	...	...	...	2	...
Baluchistan Province ...	30	1	1	28	...	...	...	...	...	...
The State of Bahawalpur ...	49	...	...	...	...	...	...	...	...	...
The State of Khairpur ...	30	...	...	...	...	...	...	...	...	...



## SECOND SCHEDULE

## PART I

*Membership of the House of Representatives*

The distribution of seats in the House of Representatives to the Provinces shall be as follows :—

(a)	East Bengal Province...	...	...	165
(b)	The Punjab Province...	...	...	75
(c)	Sind Province	...	...	19
(d)	The North-West Frontier Province:			
	Special Areas	...	...	11
	Other Areas	...	...	13
(e)	Baluchistan Province:			
	Special Areas	...	...	2
	Other Areas	...	...	3
(f)	The State of Bahawalpur	...	...	7
(g)	The State of Khairpur	...	...	1
(h)	Karachi	...	...	4

PART II

House of Representatives

Distribution of Seats among Communities

Province	Total Seats	Seats reserved for Muslims	Seats reserved for Scheduled Castes	Seats reserved for Hindus other than Scheduled Castes	Seats reserved for Christians	Seats reserved for Buddhists and others	Seats reserved for Parsis
(a) East Bengal Province ...	165	125	20	17	1	2	...
(b) The Punjab Province ...	75	73	...	...	2	...	...
(c) Sind Province ...	19	16	2	1	...	...	...
(d) The North-West Frontier Province : Special Areas ...	11	11	...	...	...	...	...
Other Areas ...	13	13	...	...	...	...	...
(e) Baluchistan Province : Special Areas ...	2	2	...	...	...	...	...
Other Areas ...	3	3	...	...	...	...	...
(f) The State of Bahawalpur ...	7	7	...	...	...	...	...
(g) The State of Khairpur ...	1	1	...	...	...	...	...
(h) Karachi ...	4	3	...	...	...	...	1

NOTES

1. For the two seats for Christians in the Punjab Province, Christians in other areas in the Western Region may be electors and candidates.
2. For the two seats for Scheduled Castes in Sind Province, members of the Scheduled Castes in other areas in the Western Region may be electors and candidates.
3. For the seat for Hindus other than Scheduled Castes in Sind Province, Hindus other than Scheduled Castes in other areas of the Western Region may be electors and candidates.
4. For the seat for Parsis in Karachi, Parsis in other areas of Pakistan may be electors and candidates.
5. For the seats reserved for Buddhists and others in East Bengal Province, Buddhists and others (not being Muslims, Scheduled Castes, Hindus, other than Scheduled Caristians or Parsis) in other areas of Pakistan may be electors and candidates.

## PART III

*Seats for Women in the House of Representatives*

The distribution of seats for women in the House of Representatives shall be as follows :—

(a)	East Bengal Province ...	...	...	7
(b)	The Punjab Province ...	...	...	3
(c)	Sind Province and the State of Khairpur		...	1
(d)	The North-West Frontier Province		...	1
(e)	Baluchistan Province and the State of Bahawalpur		...	1
(f)	Karachi ...	...	...	1

Of the seven seats in East Bengal, five seats shall be reserved for Muslims, one seat for a member of the Scheduled Castes, and one seat for a member who is neither a Muslim nor a member of the Scheduled Castes, while the remaining seven seats shall be reserved for Muslims.

## THIRD SCHEDULE

1. A person shall be qualified for election to the Legislative Assembly of a Province if he—

Qualification  
of Members  
of Legislative  
Assemblies.

- (a) is a citizen ;
- (b) has attained the age of twenty-five years ;
- (c) is able to read and write in some language ; and
- (d) is an elector in a constituency in the Province.

2. (1) Each Legislative Assembly shall have its own secretarial staff which shall be under the control of the Assembly.

Secretariat  
of the  
Legislative  
Assembly.

(2) The conditions of service of the secretarial staff of the Legislative Assembly, including those relating to appointments, transfers, promotion, dismissal and disciplinary control shall be similar to those applying to the staff of the Government of the Province ; but in the application of any rules to the staff of the Legislative Assembly any reference to the Governor or to a Minister shall be read as a reference to the Speaker.

3. (1) The expenditure of a Legislative Assembly shall be controlled by the Legislative Assembly, acting on the advice of the Finance Committee of the Assembly.

Finance  
Committee  
of the  
Legislative  
Assembly.

(2) The Speaker of the Legislative Assembly shall be Chairman of the Finance Committee; and the Minister of Finance for the Province shall be a member thereof, and the other members shall be elected by the Legislative Assembly.

(3) The Finance Committee may make rules relating to its own procedure.

4. The privileges of a Legislative Assembly and of its members shall be determined by Act of the Legislative Assembly ; and until such Act is passed the privileges shall be, subject to the Constitution—

Privileges  
of the  
Legislative  
Assembly.

- (1) In the case of a Province which had a Legislature before Constitution Day, the same as the privileges of that Legislature immediately before that day ; and
- (2) In any other case, such privileges as may be determined by the Governor.

## FOURTH SCHEDULE

## PART I

**The Supreme Court**

Salaries and allowances of Judges.

1. (1) There shall be paid to the Chief Justice of Pakistan a salary of Rs. 5,000 per mensem and to every other Judge of that Court a salary of Rs. 4,000 per mensem.

(2) Every Judge of the Supreme Court shall be entitled to a rent-free residence and to such other privileges and allowances, including allowances for expenses in respect of equipment and travelling on first appointment, and to such rights in respect of leave of absence and pension, as may be determined by the President.

Temporary appointment of Chief Justice.

2. If the office of Chief Justice of Pakistan becomes vacant, or if the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, those duties shall, until some person permanently appointed to the vacant office has entered on the duties thereof, or until the Chief Justice has resumed his duties, as the case may be, be performed by such one of the other Judges of the Court as the President may appoint as Acting Chief Justice.

Temporary appointment of Acting Puisne Judges.

3. In any of the following circumstances, namely—

- (a) when the office of Judge of the Supreme Court other than that of Chief Justice of Pakistan has become vacant, and no permanent appointment has been made to it; or
- (b) when any such Judge is appointed to act temporarily as Chief Justice of Pakistan; or
- (c) when any such Judge is unable to perform his duties on account of absence through grant of leave or otherwise;

the President, if satisfied that it is necessary to fill the vacancy, may appoint a Judge of a High Court who is qualified for appointment as a Judge of the Supreme Court to act temporarily as a Judge of that Court, and the person so appointed shall be deemed to be a Judge of the Supreme Court until the President thinks fit to revoke the appointment.

Appointment of Additional Judges.

4. If the President is satisfied that by reason of any temporary increase in the business of the Supreme Court or by reason of arrears of work in that Court it is necessary to appoint additional Judges, the President may appoint additional Judges for any such period not exceeding two years as he may specify :

Provided that at no time shall the number of Judges of the Supreme Court, including such additional Judges, exceed the number of Judges fixed for that Court under the provisions of the Constitution.

Appointment of *Ad Hoc* Judges.

5. If at any time for want of a quorum of the Judges of the Supreme Court it is not possible to hold or continue any session of the Court, the Chief Justice of Pakistan may in writing require at the sittings of the Court, as an *Ad Hoc* Judge for such period as may be necessary, the attendance of a Judge of a High Court qualified for appointment as a Judge of the Supreme Court :

Provided that no Judge shall be so nominated by the Chief Justice without previous consultation with the Chief Justice of the High Court concerned.

6. The Supreme Court shall sit at Karachi and at such other place or places as the Chief Justice of Pakistan may, with the approval of the President, from time to time appoint:

Seat of the Supreme Court.

Provided that the Court shall sit at Dacca at least once in every year for such period as the Chief Justice of Pakistan may deem necessary, for the disposal of judicial business relating to the Province of East Bengal.

7. Subject to the provisions of the Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute between—

Original jurisdiction of the Supreme Court.

- (a) the Government of the Federation and the Government of one or more Provinces or
- (b) the Government of the Federation and the Government of a Province on the one side, and the Government of one or more Provinces on the other; and
- (c) the Governments of two or more Provinces, if and so far as the dispute involves—
  - (i) any question whether of law or of fact on which the existence or extent of a legal right depends; and
  - (ii) any question as to the interpretation of the Constitution.

8. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in civil, criminal or other proceedings, if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

Appellate jurisdiction of Supreme Court in matters involving interpretation of Constitution.

(2) Where such certificate is given, any party in any case may appeal to the Supreme Court on the ground that any question as aforesaid has been wrongly decided, and with the leave of the Supreme Court, on any other ground.

9. An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in civil proceedings—

Appellate jurisdiction of the Supreme Court.

- (a) if the amount or value of the subject-matter of the dispute in the court of first instance and also in dispute on appeal was, and is not less than twenty thousand rupees; or
- (b) if the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or
- (c) if the High Court certifies that the case is a fit one for appeal to the Supreme Court:

Provided that no appeal shall lie to the Supreme Court from the judgment, decree or final order of a single Judge of the High Court.

Jurisdiction of the Supreme Court in criminal matters.

10. An appeal shall lie to the Supreme Court from any judgment, final order or sentence of a High Court in criminal proceedings, if the High Court—

- (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to transportation for life ; or
- (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him as aforesaid ; or
- (c) certifies that the case is a fit one for appeal to the Supreme Court :

Provided that the appeal under sub-paragraph (c) shall lie subject to the provisions of the rules framed by the Supreme Court and to such conditions as the High Court may by rules impose.

Review of judgments or orders by the Supreme Court.

11. The Supreme Court shall have power subject to the provisions of any Act of Parliament or any rules made by the Supreme Court, to review any judgment pronounced, or any order made, by it.

Special leave to appeal by the Supreme Court.

12. Notwithstanding anything in this Schedule the Supreme Court may grant special leave to appeal from any judgment, decree, order or sentence of any court or tribunal in the territory of Pakistan other than a court or tribunal constituted by or under any law relating to the Armed Forces.

Finality of the decisions of the Supreme Court.

13. Subject to the provisions of Paragraph 11 any order passed, judgment pronounced or sentence imposed by the Supreme Court shall be final.

Binding force of decisions.

14. The law declared by the Supreme Court shall be binding on all courts in Pakistan.

Enforcement of the decrees and orders of the Supreme Court and other powers of the Supreme Court.

15. (1) All authorities, civil and judicial, throughout the territories of Pakistan shall act in aid of the Supreme Court.

(2) The Supreme Court shall be a court of record and shall have power to pass such decrees or make such orders as may be necessary for doing complete justice in any cause or matter pending before it, and any such decree or order shall be enforceable throughout the territories of Pakistan and shall be executed in the matter as if it were a decree or order of the High Court of the Province to which it relates.

(3) If a question arises as to which High Court shall give effect to a decree or order of the Supreme Court, the decision of the Supreme Court thereon shall be final.

(4) Subject to the provisions of any Act of Parliament, the Supreme Court shall have power to make any order for the

purpose of securing the attendance of any person, the discovery or production of any document or the investigation or punishment of any contempt of itself.

(5) Any order of His Majesty in Council made on an appeal or petition before Constitution Day shall have effect as if it were an order or decree made by the Supreme Court and shall be enforceable in accordance with the provisions of sub-paragraph (2).

16. (1) If at any time it appears to the President 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 may think fit, report its opinion to the President thereon.

Advisory jurisdiction of the Supreme Court.

(2) The power exercisable by the Supreme Court under sub-paragraph (1) shall extend to all matters enumerated in the Lists in the Fifth Schedule.

17. (1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of Pakistan or such other Judge or officer of the Court as he may direct and shall be in accordance with the rules framed by the Supreme Court and approved by the President.

Officers and servants of the Supreme Court.

(2) Subject to the provisions of any Act of Parliament the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Supreme Court:

Provided that the rules in so far as they relate to salaries, allowances, leave or pension shall require the previous approval of the President.

18. (1) The Supreme Court may with the previous approval of the President make rules for regulating the practice and procedure of the Court, including rules—

Rule-making power of the Supreme Court.

- (a) as to the persons practising before the Court;
- (b) as to the conditions subject to which any judgment pronounced or order made by the Court may be reviewed, and the procedure for such review, including the time within which applications for such review are to be entered;
- (c) as to the procedure for hearing appeals and applications including the time within which appeals to the Court are to be entered;
- (d) as to the costs of, and incidental to, any proceedings in the Court;
- (e) as to the fees to be charged in respect of the proceedings in the Court;
- (f) as to the proceedings in the Court for the enforcement of any of the rights in Parts I and III of the Constitution;
- (g) as to the procedure for summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of causing delay;



- (h) as to the number of Judges who are to sit for any purpose and the powers of Judges sitting singly and in any division of the Court;
- (i) as to the granting of bail;
- (j) as to the stay of proceedings, and
- (k) as to the procedure for enquiries and investigations referred to the court for opinion or report.

(2) No judgment shall be delivered by the Supreme Court and no report shall be made under Paragraph 16, save in open court and with the concurrence of the majority of the Judges present at the hearing of the case, but nothing shall prevent a Judge who does not concur from delivering a dissenting judgment or opinion.

(3) Subject to the provisions of any rules made under this Paragraph, the Chief Justice of Pakistan shall determine what Judges are to constitute any division of the Court and what Judges are to sit for any purpose.

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## PART II

## The High Courts

\*19. (1) Until Parliament otherwise provides, there shall be a High Court for each of the Provinces of East Bengal, the Punjab, Sind and the North-West Frontier. Establishment of High Courts.

(2) Until Parliament otherwise provides, the High Court of Sind shall also be the High Court for the Province of Baluchistan, for the State of Khairpur and for Karachi and the High Court of the Punjab shall also be the High Court for the State of Bahawalpur.

(3) Until the President, by order, otherwise provides, the principal seats of the High Courts for East Bengal, the Punjab, Sind and the North-West Frontier Province shall be Dacca, Lahore, Karachi and Peshawar, respectively, but a High Court may sit at such other place within its jurisdiction as the Chief Justice of the High Court may, with the approval of the President, appoint.

20. Every High Court shall be a court of record and shall have all the powers of such a court including power to punish for contempt of itself. High Court to be court of record.

21. (1) There shall be paid to the Chief Justice of a High Court a salary of Rs. 4,000 per mensem and to every other Judge of that Court a salary of Rs. 3,500 per mensem. High Salaries of Judges.

(2) Every Judge of a High Court shall be entitled to such privileges and allowances, including allowances for expenses in respect of equipment and travelling upon first appointment, and to such rights in respect of leave of absence or pension, as may be determined by the President.

22. (1) If the office of Chief Justice of a High Court becomes vacant, or if any such Chief Justice is by reason of absence, or otherwise, unable to perform the duties of his office, those duties shall, until some person permanently appointed to the vacant office has entered on the duties thereof or until the Chief Justice has resumed his duties, as the case may be, be performed by such of the other Judges of the Court as the President may appoint as acting Chief Justice. Temporary appointment of Chief Justice and Judges of High Courts.

(2) If the office of any other Judge of a High Court becomes vacant, or if any such Judge is appointed to act temporarily as a Chief Justice, or is by reason of absence, or otherwise, unable to perform the duties of his office, the President may appoint a person qualified for appointment as a Judge of a High Court to act as a Judge of that Court, and the person so appointed shall, unless the President thinks fit to revoke his appointment, be deemed to be a Judge of that Court until some person permanently appointed to the vacant office has entered on the duties thereof, or until the permanent Judge has resumed his duties.

\*There is no decision of the Constituent Assembly to this effect but the Committee is of opinion that the High Court of Punjab should be the High Court of Bahawalpur, and the High Court of Sind should be the High Court for Khairpur. This is in accordance the recommendation of the Sub-Committee on Judiciary.

Appointment of additional Judges.

23. If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such court it appears to the President that the number of the Judges of the Court should be, for the time being, increased, the President may, appoint persons qualified for appointment as Judges of a High Court to be additional Judges of the Court for such period not exceeding two years as he may specify.

Administrative functions of High Courts.

24. (1) Every High Court shall have powers of superintendence and control over all courts throughout the territory in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns ;
- (b) make and issue general rules and prescribe forms for regulating the practice and procedure of such courts ;
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts ; and
- (d) settle tables of fees to be allowed to the sheriffs, attorneys, and all clerks and officers of the courts :

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the Governor of the Province where the High Court exercises jurisdiction exclusively within a Province and of the President in other cases.

Transfer of cases from subordinate courts to High Courts.

25. If a High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of the Constitution, the determination of which is necessary for the disposal of the case, it shall withdraw the case from that court and may—

- (a) either dispose of the case itself ; or
- (b) determine the said question of law and return the case to the Court from which the case has been so withdrawn, together with a copy of its judgment on such question and the said court shall, on receipt thereof, proceed to dispose of the case in conformity with such judgment.

Officers and servants and expenses of the High Court.

26. (1) Appointments of officers and servants of High Courts shall be made by the Chief Justice of the High Court or such other Judge or officer of the Court as he may direct and shall be in accordance with the rules framed by the High Court with the previous approval of the Governor.

(2) Subject to the provisions of any law made by the Legislative Assembly, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made in the High Court :

Provided that rules in so far as they relate to salaries, allowances, leave or pension shall require the previous approval of the Governor.

27. (1) The President may, if a recommendation in that behalf has been made by the Chief Justice of Pakistan, transfer a Judge of a High Court from one High Court to another High Court in Pakistan. Transfer of High Court Judges.

(2) When a Judge is so transferred, he shall during the period for which he serves as a Judge of the High Court to which he has been transferred, be entitled to such compensation allowance in addition to his salary as the President may by order determine.

28. A barrister or an advocate on the rolls of a High Court in Pakistan shall be entitled to act and plead in all High Courts and in all other Courts over which a High Court has jurisdiction. Right to practice in High Court.

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**PART III****Subordinate Courts**

Appointment  
of District  
Judges.

29. (1) Appointments of persons to be District Judges in any Province and the posting and promotion of such Judges shall be made by the Governor in accordance with the recommendation of the High Court exercising jurisdiction in relation to that Province.

(2) A person who is not already in the service of the Government of the Federation or the Government of a Province shall not be eligible for appointment as District Judge unless he has been, for not less than seven years, an advocate or a pleader and unless he has been recommended by the High Court for such appointment.

(3) Appointments of persons other than District Judges to the Judicial Service of a Province shall be made by the Governor of the Province in accordance with the rules made by him in that behalf after consultation with the Public Service Commission of the Province concerned and also with the High Court exercising jurisdiction in relation to that Province.

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## FIFTH SCHEDULE

## LIST I

## Federal List

1. All matters necessary for ensuring the defence of Pakistan in peace and war.
2. The Naval, Military and Air Forces of the Federation and any other armed force raised or maintained by the Government of the Federation; and armed forces which are not forces of the Federation but are attached to or operating with any of the armed forces of the Federation; any other armed forces of the Federation.
3. Preventive detention in the territory of Pakistan for reasons connected with defence, foreign affairs or the security of Pakistan; persons subject to such detention.
4. Defence industries; atomic energy and mineral resources necessary for its production.
5. All works connected with services set up under Nos. 1 and 2, and local self-government in cantonment areas, powers and functions, within such areas, of cantonment authorities, control of house accommodation in such areas, and the delimitation of such areas.
6. Foreign affairs, all matters which bring Pakistan into relation with any foreign country.
7. Diplomatic, consular and trade representation.
8. International organizations, participation in international conferences, associations and other bodies.
9. War and peace; making and implementation of treaties and other agreements with foreign countries.
10. Central intelligence organizations.
11. Foreign and extra-territorial jurisdiction; Admiralty jurisdiction; piracy; offences committed on the high seas and in the air; offences against the laws of nations.
12. Citizenship, naturalization, and aliens and other persons not being citizens.
13. Admission into and emigration and expulsion from Pakistan; extradition; passports, visas and identity certificates, immigration of refugees from outside Pakistan; pilgrimages to places outside Pakistan and by persons from outside Pakistan to places inside Pakistan.
14. Inter-Provincial and port quarantine; seamen's and marine hospitals and hospitals connected with port quarantine.
15. Trade and commerce among the Provinces and with foreign countries; import and export across customs frontiers as defined by the Government of the Federation.
16. Railways; national highways and national ports so declared by or under Act of Parliament and existing major ports; posts and telegraphs; telephones, wireless telegraphs and telephones other than broadcasting and television.
17. Carriage of goods by sea and air.
18. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for mercantile marine and civil aviation; and regulation of such education and training provided by the Provinces and other agencies.

19. Airways, aircraft and air navigation ; provision for aerodromes : regulation and organization of air traffic and of aerodromes ; provision for aeronautical education and training ; and regulation of such education and training provided by Provinces and other agencies.

20. Libraries and museums not financed by the Provinces.

21. Federal agencies and federal institutes for research, for professional or technical training or for the promotion of special studies.

22. Federal surveys and federal meteorological organizations.

23. Banking (except co-operative banking as defined in the Co-operative Societies Act) ; State Bank of Pakistan ; Post Office Savings Bank ; currency, coinage and legal tender ; foreign exchanges, promissory notes and other like instruments.

24. Insurance.

25. Stock exchanges and future markets.

26. Copyright ; patents, designs and inventions ; trade and merchandise marks.

27. Development of industries, when development under Federal control is declared by Act of Parliament enacted after securing the consent of the majority of Provinces to be expedient in the public interest.

28. Iron, steel, coal, petroleum, natural gas and mineral products except stone and Fullers earth, the control of which is declared by Act of Parliament to be expedient in the public interest.

29. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under federal control is declared by Act of Parliament to be expedient in the public interest.

30. Industrial disputes concerning the regulation of labour and safety in mines and oilfields.

31. Industrial disputes concerning persons in the employment of the Government of the Federation.

32. Standards of weights and measures.

33. Opium, so far as regards cultivation and manufacture, or sale for export.

34. Constitution, organization, jurisdiction and powers of the Supreme Court and fees taken therein.

35. Census.

36. Inquiries and statistics for the purpose of any matters in this List.

37. Pensions payable from the Federal Consolidated Fund.

38. Federal Services and the Federal Public Service Commission.

39. Elections to both Houses of Parliament and other federal elections.

40. Election Commission.

41. Fishing and fisheries beyond territorial waters.

42. Offences against laws with respect to any of the matters in this list.

43. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and

financial corporations, but excluding universities, co-operative societies as defined in the Co-operative Societies Act and Municipal Corporations.

44. Acquisition or requisitioning of land or property for the purposes of the Federation.

45. Works, lands and buildings vested in or in the possession of the Government of the Federation for purposes of the Federation (not being naval, military or air force works); but as regards property situate in a Province subject always to legislation by the Legislative Assembly save in so far as is otherwise provided by Act of Parliament.

46. Public debt of the Federation; borrowing of money on the security of the Federal Consolidated Fund.

47. Foreign loans.

48. Decorations.

49. Arms, firearms, ammunition and explosives.

50. Lighthouses, including lightships, beacons, and other provision for the safety of shipping and aircraft.

51. Petroleum and other liquids and substances declared by Act of Parliament to be dangerously inflammable, so far as regards possession, storage and transport.

52. The salaries and allowances of the Ministers, Deputy Ministers and Parliamentary Secretaries of the Government of the Federation and of the Chancellor and the Deputy Chancellor, the Speaker and the Deputy Speaker of the House of Representatives; the salaries, allowances and privileges of member of the two Houses of Parliament; and the powers and privileges of Parliament and of each House thereof.

53. The enforcement of attendance of persons for giving evidence or producing documents before Committees of Parliament or either House thereof and the punishment of persons who refuse to give such evidence or to produce such documents.

54. Extension of the jurisdiction of a High Court having its principal seat in any Province to an area outside that Province and exclusion of the jurisdiction of any such High Court from any area outside that Province.

55. Jurisdiction and powers of all Courts, other than the Supreme Court, with respect to any of the matters in this List.

56. Extension of the powers and jurisdiction of members of a police force belonging to any Province to any other area in Pakistan, but not so as to enable the police of one Province to exercise powers and jurisdiction elsewhere without the consent of the Government of the area concerned.

57. All other matters authorised by the Constitution to be regulated by Act of Parliament and not included in this List or List III.

## **LIST II Provincial List**

1. Public order (but not including the use of armed forces in aid of civil power), administration of justice; constitution and organization of all courts, except Supreme Court, and fees taken in such courts.

2. Prisons, reformatories, Borstal institutions and other institutions of a like nature and prisoners detained therein, arrangements with other Provinces for the use of prisons and other institutions.

3. Police including railway, village and border police, subject to List I.



4. Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this List, procedure in rent and revenue cases.

5. Public debt of the Province; borrowing of money on the security of the Provincial Consolidated Fund.

6. Provincial pensions *i.e.*, pensions payable out of the Provincial Consolidated Fund.

7. Provincial Services and Provincial Public Service Commission.

8. Works, lands and buildings vested in or in the possession of a Province.

9. Acquisition or requisitioning of land or property for the purposes of Provinces or when so required for the Federation.

10. Universities; libraries; museums and other similar institutions controlled or financed by the Provinces.

11. Public health; sanitation; hospitals; dispensaries; registration of births and deaths.

12. Burial, burial grounds and places and manner of disposing of human dead bodies.

13. Elections to the Legislative Assembly subject to List I regarding Election Commission.

14. Salaries and allowances of Ministers, Deputy Ministers and Parliamentary Secretaries and Chairman and Deputy Chairman of the Legislative Assembly; the salaries, allowances and privileges of the members of the Legislative Assembly; powers and privileges of the Legislative Assembly.

15. Local Self Government; municipalities, improvement trusts; district boards; mining settlement authorities; and other authorities for local self government; village administration.

16. Pilgrimages subject to List I.

17. Education.

18. Communications, that is to say, roads, bridges, ferries and other means of communications not covered by List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List III with regard to such waterways; ports subject to the provisions in List I with regard to national ports; vehicles.

19. Water, that is to say, water supplies; irrigation and canals; drainage and embankment; water storage.

20. Water power.

21. Land revenue, including the assessment and collection of revenues, the maintenance of land records; survey for revenue purposes and records of rights; and alienation of land revenue.

22. Agriculture, including agricultural education and research; protection against pests and prevention of plant diseases; improvement of stock and prevention of animal diseases; veterinary training and practice; pounds and the prevention of cattle trespass.

23. Land, rights in or over land; land tenures; relations of landlords and tenants; collection of rent; transfer, alienation and devolution of agricultural land; land improvement; and agricultural loans; colonization; courts of wards; encumbered and attached estates; treasure trove; jagirs and inams chargeable to the Provincial Consolidated Fund.

24. Forests; protection of wild birds and animals.

25. Gas except natural gas, and gasworks.

26. Regulation of mines and oilfields and mineral development subject to the provisions of List I.

27. Fisheries, except fisheries beyond territorial waters.

28. Control of inns and innkeepers ; shops and saloons.

29. Trade and commerce in the Province, fairs and markets.

30. Money-lending and money-lenders.

31. Production, supply and distribution of goods ; development of industries subject to List I.

32. Adulteration of foodstuffs and other goods.

33. Intoxicating liquors and narcotic drugs, including opium but subject to List I.

34. Poor relief ; charities ; charitable institutions ; charitable and religious endowments.

35. The incorporation, regulation and winding up of corporations not specified in List I or Universities ; unincorporated trading, literary, scientific, religious and other societies and associations ; co-operative societies, including co-operative banks as defined in the Co-operative Societies Act.

36. Betting and gambling.

37. Theatres ; dramatic performances and cinemas including sanction of cinematograph films for exhibition.

38. Inquiries and statistics for the purpose of any of the matters in this List.

39. Offences against laws with respect to any of the matters in this List.

40. Waqfs and Mosques.

41. Surveys other than federal surveys.

42. Large-scale migration from one Province to another subject to List I.

43. Preventive detention for reasons connected with the maintenance of public order.

44. Prevention of cruelty to animals.

45. Vagrancy and criminal tribes.

46. Shipping and navigation on inland waterways and carriage of passengers and goods on inland waterways, subject to List III.

47. The development of waterways for purposes of flood control, irrigation, navigation and hydro-electric power.

48. All other matters authorised by the Constitution to be regulated by Act of the Legislative Assembly and not included in this List or List III.

### LIST III

#### Concurrent List

1. Criminal law, including all matters included in the Penal Code immediately before Constitution Day, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military and air forces in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure immediately before Constitution Day.

3. Preventive detention for reasons connected with the maintenance of supplies and services essential to the community ; persons subjected to such detention.

4. Removal of prisoners and accused persons from one Province to another.

5. Civil procedure, including the law of limitation and all matters included in the Code of Civil Procedure immediately before Constitution Day; the recovery in a Province of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arising outside that Province.

6. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

7. Marriage and divorce; infants and minors; adoption.

8. Wills, intestacy, joint family property and succession, save as regards agricultural lands.

9. Transfer of property other than agricultural land; registration of deeds and documents.

10. Trusts and trustees.

11. Contracts, including partnership, agency, contracts of carriage and other special forms of contract but not including contracts relating to agricultural land.

12. Arbitration.

13. Bankruptcy and insolvency; administrators-general and official trustees.

14. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

15. Actionable wrongs, save in so far as included in Laws with respect to any of the matters specified in List I or List II.

16. Jurisdiction and powers of all courts except the Supreme Court with respect to any of the matters in this List.

17. Legal, medical and other professions.

18. Newspapers, books and printing presses.

19. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

20. Poisons and dangerous drugs.

21. Boilers.

22. Nomadic and migratory tribes.

23. Factories.

24. Welfare of labour; conditions of labour; provident funds; employer's liability and workmen's compensation; health insurance, including vailidity pensions; old age pensions and maternity benefits.

25. Unemployment; and unemployment and social insurance.

26. Trade unions; industrial and labour disputes subject to the provisions of List I.

27. The prevention of the extension from one Province to another of infectious or contagious diseases or pests affecting men, animals or plants.

28. Electricity.

29. Shipping and navigation on inland waterways, declared by Act of Parliament to be national waterways as regards mechanically-propelled vessels and the rule of the road on such waterways, carriage of passengers and goods on inland waterways.

30. Inquiries and statistics for the purpose of any of the matters in this List.

31. Fees in respect of any of the matters in this List.

32. Higher technical education, vocational and technical training of labour subject to the provisions of List I.

33. Scientific and industrial research.

34. Relief and rehabilitation of refugees.

35. Price control.

36. Broadcasting and television.

37. Ancient and historical monuments declared by law to be of national importance, archaeological sites and remains.

38. Zakat.

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## SIXTH SCHEDULE

## PART I

## Temporary Provisions

Temporary Provisions of salary, allowances and oaths, etc.

I. (1) Until provision is made by competent authority in accordance with this Constitution, the following provisions shall apply, that is to say—

- (a) the procedure of the Senate, the House of Representatives or a Joint Sitting shall be regulated by the Rules and Standing Orders of the Constituent Assembly (Legislature), subject to such amendments as may be made therein by the President ;
- (b) the procedure of a Legislative Assembly shall be regulated by the Rules or Standing Orders of the corresponding Provincial Legislature, subject to such amendments as may be made therein by the Governor ; and if there were no such Rules or Standing Orders, by such Rules or Standing Orders as the Governor may frame ;
- (c) the salaries, allowances and privileges of the President shall be the same as those of the Governor-General and the salaries, allowances and privileges of the Governor of a Province shall be the same as those of the corresponding Governor ; and if there were no such Governor, such salaries, allowances and privileges as the President may determine ;
- (d) the salaries and allowances of the Chancellor or the Speaker of the House of Representatives shall be the same as those of the President of the Constituent Assembly, and the salaries and allowances of the Deputy Chancellor or the Deputy Speaker shall be the same as those of the Deputy President of the Constituent Assembly (Legislature) ;
- (e) the salary and allowances of the Speaker of a Legislative Assembly shall be the same as those of the Speaker of the corresponding Provincial Legislature ; and if there was no such Legislature, such salary and allowances as the Governor may determine ;
- (f) the salary and allowances of a Minister, Deputy Minister, Parliamentary Secretary or Advocate-General, whether of the Federation or a Province, shall be the same as those of the person holding the corresponding office before Constitution Day, and if there is no such person, such salary and allowances as the President or the Governor, as the case may be, may determine ;
- (g) the allowances of a member of the Senate or the House of Representatives shall be the same as those of a member of the Constituent Assembly, and the salary and allowances of a member of a Legislative Assembly, shall be the same as those of a member of the corresponding Provincial Legislature ;
- (h) the salary and allowances of the Comptroller and Auditor-General shall be the same as the salary and allowances of the Auditor-General.

(2) For the purposes of clause (1), the Rules, Standing Orders, salaries, allowances and privileges shall be those in use immediately before Constitution Day.

(3) Every person holding an office on Constitution Day for which an oath is provided by the Constitution shall, as soon as possible after Constitution Day, make and subscribe such oath in accordance with the Constitution.

II. (1) The date and time of the meeting before Constitution Day to elect a President under Article 255, shall be fixed by the Constituent Assembly, and the Secretary shall send to every member seven days notice of the date so fixed.

Rules for the election of a President under Article 255.

(2) At any time before noon on the day preceding the date so fixed, any member may nominate a person for election as President by delivering to the Secretary a nomination paper signed by himself as proposer and by a second member as seconder and stating—

- (a) the name of the person nominated ; and
- (b) that the proposer has ascertained that such person is willing to serve as President if elected.

(3) Any person who has been nominated may withdraw his candidature at any time before the Constituent Assembly proceeds to hold the election.

(4) The President of the Constituent Assembly shall preside over the meeting fixed for the purpose of election. If he himself happens to be a candidate for election, the Governor-General shall appoint a member of the Constituent Assembly to be Chairman for this purpose.

(5) The Chairman shall decide all questions relating to the validity of a nomination, and his decision shall be final.

(6) On the date fixed for the election, the Chairman shall announce to the Constituent Assembly the names of the persons who have been duly nominated and have not withdrawn their candidatures, together with the names of their proposers and seconders.

(7) If there is only one such candidate, the Chairman shall declare that candidate to be duly elected. If there is more than one such candidate the Constituent Assembly shall proceed to elect the President by ballot.

(8) If there are only two such candidates, the candidate who obtains at the ballot the larger number of votes shall be declared to be elected. If they obtain an equal number of votes, the election shall be determined by the drawing of lots.

(9) If more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate of the votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election until one candidate obtains more votes than the remaining candidate or than the aggregate of the votes of the remaining candidates, as the case may be, and such candidate shall be declared to be elected.

(10) Where at any ballot any of three or more candidates obtains an equal number of votes and one of them has to be excluded from the election under Sub-paragraph (9), the determination of the question as to which of the candidates whose votes are equal is to be excluded shall be by the drawing of lots.

(11) As often as there is a vacancy in the office of President during the transitional period Sub-paragraphs (1) to (10) shall apply with the substitution of "the Provisional Parliament" for "the Constituent Assembly", "the Acting President" for "the Governor-General", and "Speaker of the Provisional Parliament" for "President of the Constituent Assembly".

CONSTITUENT ASSEMBLY OF PAKISTAN

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*Draft Constitution  
of  
The Islamic Republic of Pakistan.*

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