

PART I
EXTRACTS FROM THE CONSTITUTION

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PART V
THE UNION
CHAPTER I.—THE EXECUTIVE

The President and Vice-President

52. The President of India.—There shall be a President of India.

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54. Election of President.—The President shall be elected by the members of an electoral college consisting of—

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States.

¹[*Explanation.*—In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union territory of Pondicherry.]

55. Manner of election of President.—(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

²[*Explanation.*—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ³[2026] have been published, be construed as a reference to the 1971 census.]

56. Term of office of President.—(1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

1. Ins. by the Constitution (Seventieth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1995).

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 12, for the *Explanation* (w.e.f. 3-1-1977).

3. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 2, for "2000".

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(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

57. Eligibility for re-election.—A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

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

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor^{1***} of any State or is a Minister either for the Union or for any State.

59. Conditions of President's office.—(1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

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62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.—(1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

63. The Vice-President of India.—There shall be a Vice-President of India.

64. The Vice-President to be *ex officio* Chairman of the Council of States.—The Vice-President shall be *ex officio* Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

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1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

66. Election of Vice-President.—(1) The Vice-President shall be elected by the ¹[members of an electoral college consisting of the members of both Houses of Parliament] in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor^{2***} of any State or is a Minister either for the Union or for any State.

67. Term of office of Vice-President.—The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

68. Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.—(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

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³[**71. Matters relating to, or connected with, the election of a President or Vice-President**—(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

1. Subs. by the Constitution (Eleventh Amendment) Act, 1961, s. 2, for "members of both Houses of Parliament assembled at a joint meeting".

2. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

3. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 10, for article 71 (w.e.f. 20-6-1979).

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law¹ regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.]

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75. Other provisions as to Ministers.—(1) * * * * *

²[(1A) The total number of Ministers, including the Prime Minister, in the Council of ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

CHAPTER II.—PARLIAMENT

GENERAL

79. Constitution of Parliament.—There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

80. Composition of the Council of States.—(1) ³[⁴*** The Council of States] shall consist of—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States⁵[and of the Union territories].

(2) The allocation of seats in the Council of States to be filled by representatives of the States⁵[and of the Union territories] shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:--

Literature, science, art and social service.

1. See the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952).

2. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 2 (w.e.f. 1-1-2004).

3. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 3, for "The Council of States" (w.e.f. 1-3-1975).

4. The words "Subject to the provisions of paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

5. Added by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).

(4) The representatives of each State ^{1***} in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the ²[Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

³**81. Composition of the House of the People.**—(1) ⁴[Subject to the provisions of article 331 ^{5***}], the House of the People shall consist of—

(a) not more than ⁶[five hundred and thirty members] chosen by direct election from territorial constituencies in the States, and

(b) not more than ⁷[twenty members] to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1), —

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

⁸[Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

⁹[Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ¹⁰[2026] have been published, ¹¹[be construed, —

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purpose of sub-clause (b) of clause (2) as a reference to the ¹²[2001] census.]]

82. Readjustment after each census.—Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:]

¹³[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

1. The words "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 3.

2. Subs. by s. 3, *ibid.*, for "States specified in Part C of the First Schedule".

3. Subs. by s. 4, *ibid.*, for articles 81 and 82.

4. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 4, for "Subject to the provisions of article 331" (w.e.f. 1-3-1975).

5. The words "and paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).

6. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for "five hundred and twenty-five members" (w.e.f. 30-5-1987).

7. Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for "twenty-five members".

8. Ins. by s. 2, *ibid.*

9. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 15 (w.e.f. 3-1-1977).

10. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for "2000".

11. Subs. by s.3, *ibid.*, for certain words.

12. Subs. by s.4, *ibid.*, for certain words.

13. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 16 (w.e.f. 3-1-1977).

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Provided also that until the relevant figures for the first census taken after the year ¹[2026] have been published, it shall not be necessary to ²[readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the ³[2001] census,

under this article.]]

83. Duration of Houses of Parliament—(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for ⁴[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of ⁴[five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

84. Qualification for membership of Parliament—A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

⁵[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law⁶ made by Parliament.

⁷**85. Sessions of Parliament, prorogation and dissolution.—**(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.]

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1. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for “2000”.

2. Subs. by s. 4, *ibid.*, for certain words.

3. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for “1991”.

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for “six years” (w.e.f.20-6-1979).

5. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl. (a) (w.e.f. 1-11-1956).

6. See the Representation of the People Act, 1951 (3 of 1951), ss. 3 and 4, in Part II, *infra*.

7. Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for article 85.

Conduct of Business

99. Oath or affirmation by members.—Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

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Disqualifications of Members

101. Vacation of seats.—(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State^{1***}, and if a person is chosen a member both of Parliament and of a House of the Legislature of²[a State], then, at the expiration of such period as may be specified in rules³ made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament—

(a) becomes subject to any of the disqualifications mentioned in⁴[clause (1) or clause (2) of article 102], or

⁵[(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be,]

his seat shall thereupon become vacant:

⁶[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

102. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law⁷ not to disqualify its holder;

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

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law⁸ made by Parliament.

⁹[*Explanation.*—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

1. The words "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Subs. by s. 29 and Sch., *ibid.*, for "such a State" (w.e.f. 1-11-1956).

3. See the Prohibition of Simultaneous Membership Rules, 1950, in Vol. I, Part III, *infra*.

4. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 2, for "clause (1) of article 102" (w.e.f. 1-3-1985).

5. Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 2, for sub-clause (b).

6. Ins. by s. 2, *ibid.*

7. See the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959), in Volume I, Part IV, *infra*.

8. See the Representation of the People Act, 1951 (43 of 1951), s. 7, in Part II, *infra*.

9. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, for "(2) For the purposes of this article" (w.e.f. 1-3-1985).

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¹[(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

²**103. Decision on questions as to disqualifications of members—**(1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.]

104. Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.— If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

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PART VI

THE STATES ³***

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CHAPTER II.—THE EXECUTIVE

The Governor

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158. Conditions of Governor's office.—(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

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164. Other provisions as to Ministers.—(1)* * * * *

⁴[(1A) The total number of Ministers, including the Chief Minister, in the Council of ministers in a state shall not exceed fifteen per cent. of the total number of members of the legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister, in a State shall not be less than twelve:

Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the Commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then, the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.

¹ Ins. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, *ibid.* (w.e.f. 1-3-1985).

² Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 14, for article 103 (w.e.f. 20-6-1979).

³ The words "IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

⁴ Ins. By the Constitution (Ninety-first Amendment) Act, 2003, s. 3, (w.e.f. 1-1-2004).

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

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CHAPTER III.—THE STATE LEGISLATURE

General

168. Constitution of Legislatures in States.—(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(a) in the States of ^{1***} Bihar, ^{2***3} ^{4***} ⁵[Maharashtra], ⁶[Karnataka] ^{7***} ⁸[and Uttar Pradesh], two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

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

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

⁹[**170. Composition of the Legislative Assemblies.**—(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

1. The words "Andhra Pradesh," omitted by the Andhra Pradesh Legislative Council (Abolition) Act, 1985 (34 of 1985) s. 4 (w.e.f. 1.6.1985).

2. The word "Bombay" omitted by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).

3. No date has been appointed under s. 8(2) of the Constitution (Seventh Amendment) Act, 1956, for the insertion of the words "Madhya Pradesh" in this sub-clause.

4. The words "Tamil Nadu" omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986 (40 of 1986), s. 4 (w.e.f. 1-11-1986).

5. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).

6. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 4, for "Mysore" (w.e.f. 1-11-1973) which was ins. by the Constitution (Seventh Amendment) Act, 1956, s. 8.

7. The word "Punjab," omitted by the Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969), s. 4 (w.e.f. 7-1-1970).

8. Subs. by the West Bengal Legislative Council (Abolition) Act, 1969 (20 of 1969), s. 4, for "Uttar Pradesh and West Bengal" (w.e.f. 1-8-1969).

9. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for article 170 (w.e.f. 1-11-1956).

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

¹[*Explanation.*—In this clause, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ²[2026] have been published, be construed as a reference to the ³[2001] census.]

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

⁴[Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year ²[2026] have been published, it shall not be necessary to ⁵[readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the ³[2001] census,

under this clause.]]

171. Composition of the Legislative Councils.—(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed ⁶[one-third] of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) If the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, for the former *Explanation* (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s.5, for "2000" and "1971" respectively.

3. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s.4, for "1991".

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for certain words.

6. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for "one-fourth" (w.e.f. 1-11-1956).

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—

Literature, science, art, co-operative movement and social service.

172. Duration of State Legislatures.—(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for ¹[five years] from the date appointed for its first meeting and no longer and the expiration of the said period of ¹[five years] shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

173. Qualification for membership of the State Legislature—A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

²[(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under and law³ made by Parliament.

⁴[**174. Sessions of the State Legislature, prorogation and dissolution.**—(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(a) prorogue the House or either House;

(b) dissolve the Legislative Assembly.]

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¹ Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 24, for "six years" (w.e.f. 6-9-1979).

² Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 4, for cl. (a).

³ See the Representation of the People Act, 1951 (43 of 1951), ss. 5, 5A and 6, in Part II, *infra*.

⁴ Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for article 174.

Conduct of Business

188. Oath or affirmation by members.—Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

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Disqualifications of Members

190. Vacation of seats.—(1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules¹ made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

(a) becomes subject to any of the disqualifications mentioned in²[clause (1) or clause (2) of article 191];
or

³[(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,]

his seat shall thereupon become vacant:

⁴[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

191. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(a) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

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

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

¹ See the Prohibition of Simultaneous Membership Rules, 1950, in Vol. I, Part III, *infra*.

² Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 4, for "clause (1) of article 191" (w.e.f. 1-3-1985).

³ Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 3, for sub-clause (b).

⁴ Ins. by s. 3, *ibid*.

(e) if he is so disqualified by or under any law¹ made by Parliament.

²[*Explanation.*—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

³[(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.]

⁴[**192. Decision on questions as to disqualifications of members**—(1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.]

193. Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.—If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

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PART XV

ELECTIONS

324. Superintendence, direction and control of elections to be vested in an Election Commission.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution^{5***} shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

1. See the Representation of the People Act, 1951 (43 of 1951), s. 7, in Part II, *infra*.

2. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 5, for "(2) For the purposes of this article" (w.e.f. 1-3-1985).

3. Ins. by s. 5, *ibid.* (w.e.f. 1-3-1985).

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 25, for article 192 (w.e.f. 20-6-1979).

5. Certain words omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2.

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor^{1***} of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.—There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.—The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than²[eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

327. Power of Parliament to make provision with respect to elections to Legislatures.—Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, election to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

328. Power of Legislature of a State to make provision with respect to elections to such Legislature.—Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

329. Bar to interference by courts in electoral matters.—³[Notwithstanding anything in this Constitution^{4***}—]

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

2. Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years" (w.e.f. 28-3-1989).

3. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for "Notwithstanding anything in this Constitution" (w.e.f. 10-8-1975).

4. Certain words omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 35 (w.e.f. 20-6-1979).

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

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PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People—(1) Seats shall be reserved in the House of the People for—

(a) the Scheduled Castes;

¹[(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and]

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State ²[or Union territory] for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State ²[or Union territory] in the House of the People as the population of the Scheduled Castes in the State ²[or Union territory] or of the Scheduled Tribes in the State ²[or Union territory] or part of the State ²[or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State ²[or Union territory].

³[(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.]

⁴[*Explanation*.—In this article and in article 332, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year ⁵[2026] have been published, be construed as a reference to the ⁶[2001] census.]

331. Representation of the Anglo-Indian community in the House of the People— Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, ⁷[except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State ^{8***}.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

1. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (b) (w.e.f. 16-6-1986).

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

3. Ins. by the Constitution (Thirty-first Amendment) Act, 1973, s. 3.

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 47 (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 6, for "2000" and "1971", respectively.

6. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 5, for "1991".

7. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 3, for certain words (w.e.f. 16-6-1986).

8. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

¹[(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year ²[2026], of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,-

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.]

³[(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year ²[2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district ⁴***.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district ⁴***.

⁵[Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Areas District, shall be maintained.]

333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States— Notwithstanding anything in article 170, the Governor ⁶*** of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, ⁷ [nominate one member of that community to the Assembly].

334. Reservation of seats and special representation to cease after ⁸[sixty years].—Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of ⁸[sixty years] from the commencement of this Constitution:

1. Ins. by the Constitution (Fifty-seventh Amendment) Act, 1987, s. 2 (w.e.f. 21-9-1987).

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000".

3. Ins. by the Constitution (Seventy-second Amendment) Act, 1992, s. 2 (w.e.f. 5-12-1992).

4. Certain words omitted by Act 81 of 1971, s. 71 (w.e.f. 21-1-1972).

5. Ins. by the Constitution (Nineteenth Amendment) Act, 2003, s. 2 (w.e.f. 28-9-2003).

6. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

7. Subs. by the Constitution (Twenty-third Amendment) Act, 1969, s. 4, for certain words (w.e.f. 23-1-1970).

8. Subs. by the Constitution (Seventy-ninth Amendment) Act, 1999, s. 2, for "fifty years" (w.e.f. 25-1-2000).

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Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

* * * *

341. Scheduled Castes.—(1) The President ¹[may with respect to any State ²[or Union territory], and where it is a State ^{3***}, after consultation with the Governors ^{4***} thereof,] by public notification⁵, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State ²[or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. Scheduled Tribes.—(1) The President ⁶[may with respect to any State ²[or Union territory], and where it is a State ^{3***}, after consultation with the Governor ^{4***} thereof,] by public notification⁵, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State ²[or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

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PART XVIII

EMERGENCY PROVISIONS

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356. Provisions in case of failure of constitutional machinery in States.—(1) If the President, on receipt of a report from the Governor ^{4***} of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor ^{7***} or any body or authority in the State other than the Legislature of the State;

(b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State:

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for "may, after consultation with the Governor or Rajpramukh of a State".

2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

3. The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 29 and Sch., *ibid*.

4. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid*.

5. See Manual of Election Law, Vol. I, Part III, *infra*.

6. Subs. by the Constitution (First Amendment) Act, 1951, s.11, for "may, after consultation with the Governor or Rajpramukh of a State".

7. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

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Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of ¹[six months from the date of issue of the Proclamation]:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of ²[six months] from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of ²[six months] and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People:

³[Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in the first proviso to this clause to "three years" shall be construed as a reference to ⁴[five years].

⁵[(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless-

(a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

(b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned:]

³[Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.]

* * * *

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for "one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)" (w.e.f. 20-6-1979).

2. Subs. by s. 38, *ibid.*, for "one year" (w.e.f. 20-6-1979).

3. Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2.

4. Successively subs. by the Constitution (Sixty-seventh Amendment) Act, 1990, s. 2 (w.e.f. 4-10-1990) and the Constitution (Sixty-eighth Amendment) Act, 1991, s. 2 to read as above (w.e.f. 12-3-1991).
5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for cl. (5) (w.e.f. 20-6-1979).

Extracts from the Constitution

(PART I)

¹**[361B. Disqualification for appointment on remunerative political post.**—A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.—For the purposes of this article,—

(a) the expression “House” has the meaning assigned to it in clause (a) of paragraph 1 of the Tenth Schedule;

(b) the expression “remunerative political post” means any office—

(i) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or

(ii) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.]

* * * * *

PART XXI

²[TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS

* * * * *

³**[371F. Special provisions with respect to the State of Sikkim.**—Notwithstanding anything in this Constitution,—

(a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

(b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)—

(i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;

(ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and

(iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

(c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of ⁴[five years] in clause (1) of article 172 shall be construed as references to a period of ⁵[four years] and the said period of ⁵[four years] shall be deemed to commence from the appointed day;

(d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;

¹ Ins. by the Constitution (Ninety-first Amendment) Act, 2003 s. 4 (w.e.f. 1-1-2004).

2. Subs. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2, for "TEMPORARY AND TRANSITIONAL PROVISIONS" (w.e.f. 1-12-1963)
 3. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 3 (w.e.f. 26-4-1975).
 4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "six years" (w.e.f. 6-9-1979).
 5. Subs. by s. 43, *ibid.*, for "five years" (w.e.f. 6-9-1979).

Extracts from the Constitution
(PART I)

* * * * *

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

* * * * *

¹[**371G. Special provision with respect to the State of Mizoram.**—Notwithstanding anything in this Constitution,-

(a) no Act of Parliament in respect of—

- (i) religious or social practices of the Mizos,
- (ii) Mizo customary law and procedure,
- (iii) administration of civil and criminal justice involving decisions according to Mizo customary law,
- (iv) ownership and transfer of land,

shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

(b) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.]

²[**371H. Special provision with respect to the State of Arunachal Pradesh.**—Notwithstanding anything in this Constitution, —

(a) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(b) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.]

³[**371-I. Special provision with respect to the State of Goa.**—Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.]

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1. Ins. by the Constitution (Fifty-third Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).
2. Ins. by the Constitution (Fifty-fifth Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).
3. Ins. by the Constitution (Fifty-sixth Amendment) Act, 1987, s. 2 (w.e.f. 30-5-1987).

Extracts from the Constitution
(PART I)

THIRD SCHEDULE
[Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219]*

Forms of Oaths or Affirmations

* * * *

¹[III

A

Form of oath or affirmation to be made by a candidate for election to Parliament:--

"I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by solemnly affirm law established and I will uphold the sovereignty and integrity of India".

* * * *

* * * *

²[VII

A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly or Legislative Council, do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by solemnly affirm law established and I will uphold the sovereignty and integrity of India".

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* See also Articles 84(a) and 173(a).

1. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5, for Form III.
2. Subs., *ibid.*, s. 5, for Form VII.

Extracts from the Constitution
(PART I)

¹[FOURTH SCHEDULE
[Articles 4(1) and 80(2)]
Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE

1.	Andhra Pradesh	18
2.	Assam.....	7
3.	Bihar.....	² [16]
³ [4	Jharkhand	6]
⁴ [⁵ [5.]	Goa.....	1]
⁶ [⁵ [6.]	Gujarat.....	11]
⁷ [⁵ [7.]	Haryana.....	5]
⁵ [8.	Kerala.....	9
⁵ [9.	Madhya Pradesh	⁸ [11]
⁹ [⁵ [10.]	Chhattisgarh	5]
¹⁰ [⁵ [11.]	Tamil Nadu]	¹¹ [18]
¹² [⁵ [12.]	Maharashtra	19]
¹³ [⁵ [13.]	Karnataka	12]
⁵ [14.]	Orissa	10
⁵ [15.]	Punjab	¹⁴ [7]
⁵ [16.]	Rajasthan	10
⁵ [17.]	Uttar Pradesh	¹⁵ [31]
¹⁶ [⁵ [18.]	Uttaranchal	3]
⁵ [19.]	West Bengal	16
⁵ [20.]	Jammu and Kashmir	4
¹⁷ [⁵ [21.]	Nagaland	1]
¹⁸ [⁵ [22.]	Himachal Pradesh	3]
⁵ [23.]	Manipur	1
⁵ [24.	Tripura	1
⁵ [25.	Meghalaya	1
¹⁹ [⁵ [26.]	Sikkim	1]
²⁰ [⁵ [27.]	Mizoram	1]
²¹ [⁵ [28.]	Arunachal Pradesh	1]
⁵ [29.]	Delhi	3
⁵ [30.]	Pondicherry	1

Total = ²²[233]]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 3, for the Fourth Sch.
2. Subs. by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 for "22" (w.e.f. 15-11-2000).
3. Ins. by s. 7, *ibid.* (w.e.f. 15-11-2000).
4. Ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6 (w.e.f. 30-5-1987).
5. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
6. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6, for "4" (w.e.f. 1-5-1960).
7. Ins. By the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 (w.e.f. 1-11-1966).

8. Subs. by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 7, for "16" (w.e.f. 1-11-2000).
9. Ins. by s. 7, *ibid.* (w.e.f. 1-11-2000).
10. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "11" (w.e.f. 14-1-1969).
11. Subs. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8, for "17" (w.e.f. 1-4-1960).
12. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6 (w.e.f. 1-5-1960).
13. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "13" (w.e.f. 1-11-1973).
14. Subs. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9, for "11" (w.e.f. 1-11-1966).
15. Subs. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s. 7, for "34" (w.e.f. 9-11-2000).
16. Ins. by s.7, *ibid.* (w.e.f. 9-11-2000).
17. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 6 (w.e.f. 1-12-1963).
18. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 5 (w.e.f. 25-1-1971).
19. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4 (w.e.f. 26-4-1975).
20. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 5 (w.e.f. 20-2-1987).
21. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 5 (w.e.f. 20-2-1987).
22. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6, for "232" (w.e.f. 30-5-1987).

Extracts from the Constitution
(PART I)

* * * *

¹[TENTH SCHEDULE

[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. Interpretation.— In this Schedule, unless the context otherwise requires,—

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or ^{2***} paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(c) "original political party", in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.—(1) Subject to the provisions of ³[paragraphs 4 and 5], a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

1. Added by the Constitution (Fifty-second Amendment) Act, 1985, s. 6 (w.e.f. 1-3-1985).

2. The words "paragraph 3 or, as the case may be," omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5(a).

3. Subs. by s. 5(b) *ibid.*, for "paragraphs 3, 4 and 5".

Extracts from the Constitution

(PART I)

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,—

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

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4. Disqualification on ground of defection not to apply in case of merger.—(1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of

sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

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1. Omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5(c).

Extracts from the Constitution
(PART I)

5. Exemption.—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to disqualification on ground of defection.—(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. Bar of jurisdiction of courts.—Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. Rules.—(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the report, which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such report shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (I) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (I) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

Extracts from the Constitution
(PART I)

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.]

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