APPENDICES
APPENDIX I

Amritsar Treaty, 1846

Treaty between the British Government on the one part and Maharajah Gulab Sing of Jummoo on the other, concluded on the part of the BRITISH GOVERNMENT by FREDERICK CURRIE, ESQUIRE, and BREVET-MAJOR HENRY MONTGOMERY LAWRENCE, acting under the orders of the RIGHT HONOURABLE SIR HENRY HARDINGE, G.C.B., one of HER BRITANNIC MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, GOVERNOR-GENERAL, appointed by the HONOURABLE COMPANY to direct and control all their affairs in the EAST INDIES, and by MAHARAJAH GULAB SING in person – 1846.

ARTICLE 1

The British Government transfers and makes over for ever, in independent possession, to Maharajah Gulab Sing and their heirs male of his body, all the hilly or mountainous country, with its dependencies, situated to the eastward of the river Indus and westward of the river Ravee, including Chumba and excluding Labul, being part of the territories ceded to the British Government by the Lahore State, according to the provisions of Article IV of the Treaty of Lahore, dated 9th March, 1946

ARTICLE 2

The eastern boundary of tract transferred by the foregoing Article to Maharajah Gulab Sing shall be laid down by the Commissioners appointed by the British Government and Maharajah Gulab Sing respectively for that purpose, and shall be defined in a separate Engagement after survey.

ARTICLE 3

In consideration of the transfer made to him and his male heirs by the provisions of the foregoing Articles, Maharajah Gulab Sing will pay to the British Government the sum of seventy-five lakhs of Rupees (Nanukshahee), fifty lakhs to be paid on ratification of this Treaty, and twenty-five lakhs on or before the first October of the current year A.D. 1846.
ARTICLE 4

The limits of the territories of Maharajah Gulab Sing shall not be at any time changed without the concurrence of the British Government.

ARTICLE 5

Maharajah Gulab Sing will refer to the arbitration of the British Government any dispute or questions that may arise between himself and the Government of Lahore or any other neighbouring States, and will abide by the decision of the British Government.

ARTICLE 6

Maharajah Gulab Sing engages for himself and heirs to join, with the whole of his Military Force, the British troops, when employed within the hills, or in the territories adjoining his possession.

ARTICLE 7

Maharajah Gulab Sing engages never to take or retain in his service, any British subject, nor the subject of any European or American State, without the consent of the British Government.

ARTICLE 8

Maharajah Gulab Sing engages to respect, in regard to the territory transferred to him, provisions of Articles V, VI and VII of the separate Engagement between the British Government and the Lahore Durbar, dated March 11th 1846.

ARTICLE 9

The British Government will give its aid to Maharajah Gulab Sing in protecting his territories from external enemies.
ARTICLE 10

Maharajah Gulab Sing acknowledges the supremacy of the British Government, and will in token of such supremacy present annually to the British Government one horse, twelve perfect shawl goats of approved breed (six male and six female), and three pairs of Cashmere shawls.

This Treaty, consisting of ten articles, has been this day settled by Frederick Currie, Esquire and Brevet-Major Henry Montgomery Lawrence, acting under the directions of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General, on the part of the British Government, and by Maharajah Gulab Sing in person; and the said Treaty has been this day ratified by the seal of the Right Honourable Sir Henry Hardinge, G.C.B., Governor-General.

Done at Umritsar, the sixteenth day of March, in the year of our Lord one thousand eight hundred and forty-six, corresponding with the seventeenth day of Rubbee-oool-awul 1262 Hijree.

F. CURRIE

H. HARDINGE

H. M. LAWRENCE

By order of the Right Honourable the Governor-General of India.

F. Currie

Secretary to the Government of India, with the Governor-General.
APPENDIX II

Agreement between the Lahore and Kashmir Darbars - 1847

Agreement concluded between the Governments of Lahore and Jammu by Dewan Dina Nath and Rai Kishen Chand on the part of Maharaja Duleep Singh and Dewan Jowala Sahai and Kazi Mohkum ud-din on that of Maharaja Gulab Sing in the presence of Lieutnant-Colonel Lawrence, Agent, Governor-General, North-Western Frontier, and Resident at Lahore, and subject to the approval of the Governor-General of India, regarding the exchange of the districts of Hazara, Pukli, Kahuta etc., west of the River Jhelum for lands east of that river in the direction of Jammu.

We, the undersigned, consent and agree that Captain J. Abbott, the Boundary Commissioner, having examined the revenue records of the country west of the Jhelum, shall, after deducting jagirs and rent-free lands, fix the yearly rent, after which lands producing half that rent shall be made over to Jammu from the Lahore territory. Captain Abbott shall then lay down a well-defined boundary so as to prevent all future dispute, viz., on the west of the Jhelum river to the border of Mozufferabad, whence it is to follow the Kurnaha river until such place as Captain Abbott can determine, a distinct and well-marked line across to the river Indus. This done, the mutual exchange of territory shall be effected, after which it will behove both parties to adhere forever to the terms now settled, but should difference arise, they are to be referred to the Agent, Governor-General, North-Western Frontier.

This agreement is signed in the presence to Lieutenant-Colonel Lawrence, Agent, Governor-General, and is subject to the confirmation of the Governor-General of India. A Copy of this agreement to be made over to each Durbar, and one lodged in the Agency Office.

DEWAN JAWALA SAHAI
DEWAN DINNATH
KAZI MOHKUM-UD-DIN
RAI KISHEN CHAND
H.M. LAWARENCE
Agent, Governor General, and Resident at Lahore
Appendix III

State Subject Definition

Notification dated the 20th April, 1927

1. No. I-L/84. - The following definition of the term “State Subject” has been sanctioned by His Highness the Maharaja Bahadur (vide Private Secretary's letter No. 2354, dated the 31st January, 1927 to the Revenue Member of Council) and is hereby promulgated for general information.

The terms State Subject means and includes –

Class I. - All persons born and residing within the State before the commencement of the reign of the reign of His Highness the late Maharaja Ghulab Singh Sahib Bahadur, and also persons who settled therein before the commencement of Samvat year 1942, and have since been permanently residing therein.

Class II. - All persons other than those belonging to Class I who settled within the State before the close of Samvat year 1968, and have since permanently resided and acquired immovable property therein.

Class III. - All persons other than those belonging to Classes I and II permanently residing within the State, who have acquired under a rayatnama any immovable property therein or who may hereafter acquire such property under an ijazatnama and may execute a rayatnama after ten years continuous residence therein.

2. [Class IV. - Companies which have been registered as such within the State and which, being companies in which the Government are financially interested or as the economic benefit to the State or to the financial stability of which the Government are satisfied, have by a special order of His Highness been declared to be State Subjects].

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1. This notification is to be read subject to the provisions of section 6 of the Constitution of Jammu and Kashmir.
2. Class IV and Note IV added by Order No. 98-H/39, published in Government Gazette dated 27th Poh, 1996. By the same order His Highness is further pleased to direct that, notwithstanding any law, rule or other order to the contrary, no disability as regards acquisition of any interest in land or other immovable property in the State shall attach to a company which is a State Subject within the meaning of Notification No. I-L84 dated 20th April, 1927, as amended.
Note I. – In matters of grants of the State scholarships, State lands for agricultural and house building purposes and recruitment of State service, State Subjects of Class I should receive preference over other classes and those of Class II over Class III, subject, however, to the Order dated 31st January, 1927 of His Highness the Maharaja Bahadur regarding employment of hereditary State Subjects in Government service.

Note II. – The descendants of the persons who have secured the status of any class of the State Subjects will be entitled to become the State Subject of the same class. For example, if A is declared a State Subject of Class II his sons and grandsons will ipso facto acquire the status of the same Class (II) and not of Class I.

1[Note III. – The wife or a widow of a State Subject of any class shall acquire the status of her husband as State Subject of the same Class as her husband, so long as she resides in the State and does not leave the State for permanent residence outside the State.]

Note IV. – For the purposes of the interpretation of the term ‘State Subject’ either with reference to any law for the time being in force or otherwise, the definition given in this Notification as amended up to date shall be read as if such amended definition existed in this Notification as originally issued.

NOTIFICATION

(Issued by order of His Highness the Maharaja Bahadur dated Srinagar, the 27th June, 1932/14th Har, 1989. Published in Government Gazette dated 24th Har, 1989)

2[No. 13-L / 1989 – Whereas it is necessary to determine the status of Jammu and Kashmir State Subjects in foreign territories and to inform the Governments of...

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2. This Notification is to be read subject to the provisions of section 6 of the Constitution of Jammu and Kashmir and the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act, 1963 (XIII of 1963.)
Foreign States as to the position of their nationals in this State; it is hereby com­manded and notified for public information, as follows :-

1. That all emigrants from the Jammu and Kashmir State to foreign territories shall be considered State Subjects and also the descendants of these emigrants born abroad for two generations :

Provided that, these nationals of the Jammu and Kashmir State shall not be entitled to claim the internal rights granted to subjects of his State by the laws, unless they fulfil the conditions laid down by those laws and rules for the specific purposes mentioned therein.


3. Certificates of nationality of the Jammu and Kashmir State may, on application, be granted by the Minister-in-Charge of the Political Department in accordance with the provisions of section 1 of this Notification.
APPENDIX IV


ACT NO. XIV OF 1996 (SVT) (1939 A.D.)

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THE JAMMU AND KASHMIR CONSTITUTION ACT, 1996 (1939 A.D.)

ACT NO. XIV OF 1996 (SVT) (1939 A.D.)

[Promulgated by His Highness the Maharaja Bahadar of Jammu and Kashmir on 22nd Bhadon 1996 corresponding to 7th September, 1939.]

PART I

INTRODUCTORY

PREAMBLE – WHEREAS it is expedient to consolidate and amend the law relating to the Government of Jammu and Kashmir; We are hereby pleased to enact as follows :-

1. Short title — This Act may be cited as the Jammu and Kashmir Constitution Act of 1996.

2. Extent and commencement — This Act shall extend to the whole of the Jammu and Kashmir State and shall come into force at once.

3. Definitions — In this Act unless there is anything repugnant in the subject or context :

   (a) "Council" means the Council of the Ministers of Jammu and Kashmir referred to in section 7;

   (b) "Gazette" means the Jammu and Kashmir Government Gazette;

   (c) "His Highness" means High Highness the Maharaja Bahadur of Jammu and Kashmir;
(d) "official" and "non-official" mean respectively a person who is and a person who is not in the Civil or Military Service of the State, provided that rules under this Act may provide for the holders of such offices or any of them as may be specified in the rules not being treated for purposes of this Act as officials;

(e) "rules" mean the rules made under this Act; and

(f) "State" means the State of Jammu and Kashmir

4. Government of the State by His Highness — The territories for the time being vested in His Highness are governed by and in the name of His Highness, and all rights, authority and jurisdiction which appertain or are incidental to the government of such territories are exercisable by His Highness, except in so far as may be otherwise provided by or under this Act, or as may be otherwise provided by or under this Act, or as may be otherwise directed by His Highness.

5. His Highness' Inherent powers — Notwithstanding anything contained in this or any other Act, all powers, legislative, executive and judicial, in relation to the State and its government are hereby declared to be and to have always been inherent in and possessed and retained by His Highness and nothing contained in this or any other Act shall affect or be deemed to have affected the right and prerogative of His Highness to make laws, and issue proclamations, orders and ordinances by virtue of his inherent authority.

PART II
THE EXECUTIVE

6. Vesting of the civil administration in the Council — Subject always to the provisions of section 4 and 5 and subject also to such rules of business and allocation of portfolios and such other directions as to consultations with or report to and confirmation by His Highness on special matters as His Highness may give from time to time by general or special orders in that behalf, the superintendence, direction and control of the civil administration and government of the State shall be vested in the Council.
7. Constitution of the Council — The Council shall consist of the Prime Minister for the time being and such other Ministers of State as His Highness may appoint by Royal Warrant of appointment. The Prime Minister and the other Ministers shall be responsible to His Highness and shall hold office during the pleasure of His Highness. The Prime Minister shall be President of the Council.

8. Oath of office of the Ministers — Every person appointed to be a member of the Council shall before entering on the duties of this office make and subscribe before his Highness or any other officer authorised by His Highness in this behalf on oath of allegiance in the form set out in Schedule I.

9. Rules for the conduct of business of the Council — The Prime Minister may with the previous sanction of His Highness make rules for the more convenient transaction of the business of the Council.

10. Advocate General — (1) His Highness may appoint a person qualified to be appointed a Judge of the High Court to be Advocate General for the State subject to such rules as may be made by the Council in this behalf.

(2) It shall be the duty of the Advocate General to give advice on such legal matters and to perform such other duties of a legal character as may from time to time be referred or assigned to him by the Council.

(3) The Advocate General shall be appointed for such period and on such salary or other remuneration and on such terms and conditions of service as the His Highness may fix.

11. Authentication of orders — Orders and other instruments made and executed in the name of His Highness or of the Council shall be authenticated in such manner as may be specified in rules to be made by High Highness and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by His Highness or the Council as the case may be.
12. **Power to make rules** — The Council may make rules not inconsistent with this Act for the following matters:

(a) the term of office of the nominated members of the Praja Sabha and the manner of filling casual vacancies among them;

(b) the conditions under which and the manner in which persons may be nominated as members of the Praja Sabha;

(c) the qualifications of electors, the constitution of constituencies and their territorial extent, the method of election of the members of the Praja Sabha and any matters incidental or ancillary thereto;

(d) the qualifications for being or being chosen as members of the Praja Sabha;

(e) the final decision of doubts and disputes as to the validity of an election;

(f) the prevention of corrupt practices at elections;

(g) the manner in which rules should be carried into effect;

(h) regulating the course of business and the preservation of order in the Praja Sabha;

(i) prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules;

(j) fixing the dates and the procedure for the presentation and discussion of the annual financial statement;

(k) fixing the halting and travelling allowances of members of the Praja Sabha for attending meetings of the Praja Sabha or of committees thereof;

(l) the duties of Praja Sabha Under-Secretaries;

(m) the duties of the Advocate General; and

(n) generally for carrying out the provisions of this Act.
PART III
THE LEGISLATURE

13. Legislature — Subject to the provisions of this Act, the Legislature of the State shall consist of His Highness and a chamber to be known as the Praja Sabha.

14. Constitution of the Praja Sabha — (1) The Praja Sabha shall consist of the President and seventy-five other members

1[(2) The members of the Council [other than those who at the time of their appointment as such are already members of the Praja Sabha] shall be ex-officio members thereof]

(3) Of the remaining members, forty shall be elected and the rest nominated by His Highness.

(4) Thirty three of the elected members shall represent the communities and the general constituencies shown in Schedule II and seven shall represent the special constituencies shown in Schedule III.

(5) Of the nominated members referred to in sub-section (3) —

(a) fourteen shall represent the areas and communities shown in Schedule IV, and
(b) not more than eight shall be officials.

(6) Rules may be made under clause (c) of section 12 altering the constituencies and their territorial extent as shown in Schedule IV but such rules shall not have effect unless sanctioned by His Highness.

(7) His Highness may for the purpose of any Bill introduced or proposed to be introduced in the Praja Sabha nominate not more than two persons having special knowledge or experience of the subject matter of the Bill, and these persons shall, in relation to the Bill, have, for the period for which they are nominated all the rights of members of the Praja Sabha, and shall be in addition to the members above referred to.

15. Duration, session and dissolution of the Praja Sabha — (1) Every Praja Sabha shall continue for three years from its first meeting:

Provided that His Highness may

(a) at any time dissolve the Praja Sabha before the expiry of its term; or
(b) extend the term of the Praja Sabha if in special circumstances he so thinks fit.

(2) His Highness shall appoint a date not more than six months after the date of expiry of the term of the Praja Sabha or of its dissolution for its next session.

(3) (a) There shall be every year at least one session of the Praja Sabha at Jammu and another at Srinagar.

(b) Subject to the provisions of this section, His Highness may from time to time —

(i) summon the Praja Sabha at such time and place as he thinks fit; or
(ii) prorogue the Praja Sabha; or
(iii) dissolve the Praja Sabha.

16. Communications by His Highness to Praja Sabha — Communications by His Highness to the Praja Sabha may be made —

(a) in persons; or
(b) by message sent through the Prime Minister or any other Minister; or
(c) by message sent through the President or any other person presiding under the provisions of section 20.

17. Communications by the Praja Sabha to His Highness — Communications by the Praja Sabha to His Highness shall be made by formal address submitted through the President after motion made and carried in the Praja Sabha.

18. Right of Advocate General to speak and take part in the proceedings of the Praja Sabha — The Advocate General shall have the right to speak in the Praja Sabha and to take part in its proceedings and in the proceedings of any of its committees but shall not, merely by virtue of this section, have a right to vote.
19. **President** — The President of the Praja Sabha shall be appointed by His Highness for such term as he may fix and he may remove the President from office and fill casual vacancies in that office.

20. **Deputy President** — (1) The Praja Sabha shall choose one of its members to the Deputy President thereof and so often as the office of the Deputy President becomes vacant the Praja Sabha shall chose another member to be Deputy President.

(2) The Deputy President shall perform such duties of the President as may be assigned to him by the President with the approval of the Council and shall, during the absence of the President from any sitting of the Praja Sabha, act as President.

(3) During the temporary absence of the President and the Deputy President from a meeting of the Praja Sabha such person shall act as President as His Highness may by general or special order in that behalf direct.

21. **Vacation of and removal from office of the Deputy President** — A member holding the office of Deputy President shall vacate his office if he ceases to be a member of the Praja Sabha, may, at any time, resign his office by writing under his hand addressed to the Prime Minister, and may be removed from his office by a resolution of the Praja Sabha passed by a majority of the members then on the roll of the Praja Sabha.

22. **Praja Sabha Under-Secretaries** — His Highness may appoint from among the non-official members of the Praja Sabha as many Under-Secretaries and for such period not exceeding the life of the Praja Sabha as he may think fit. An Under-Secretary shall be attached to one or more Ministers and will be assigned such duties in relation to the business coming before the Praja Sabha as may be prescribed by rules in this behalf.

23. **Legislative powers of the Praja Sabha** — Subject to the provisions of this Act, the Praja Sabha may make laws for the whole State or any part thereof, and for the subjects of His Highness wherever they may be.

24. **Reserved matter** — It shall not be lawful for the Praja Sabha to consider or deal with any matter or enact any law relating to or affecting :-

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(a) His Highness or any member of the Royal Family or the management of the Royal household;

(b) relations, treaties, conventions or agreements between the State and His Majesty the King Emperor of India or the Government of India or with Foreign Powers or the Government of any State in India now subsisting or in force or hereafter to be established or made;

(c) matters of frontier policy including those relating to Ladakh and Gilgit;

(d) such matters relating to the Jagirs of Poonch and Chenani as His Highness may specify;

(e) rights specifically granted to Illaqadars or Jagirdars by their sanads;

(f) the organization, discipline and control of the State Forces;

(g) the departments declared by His Highness from time to time as Hazur departments;

(h) the Dharmarth Trust;

(i) the provisions of this Act and the rules made thereunder and their repeal or modification; and

(j) such other matters as may be specified by His Highness from time to time.

25. Voting in the Praja Sabha, powers of the Praja Sabha to act notwithstanding vacancies and quorum — (1) All questions at any sitting of the Praja Sabha shall be determined by a majority of votes of the members present and voting, other than the President or person acting as such;

Provided that, in the case of an equality of votes, the President or person acting as such shall exercise a casting vote.

(2) The Praja Sabha shall have power to act notwithstanding any vacancy in the membership thereof and any proceedings in the Praja Sabha shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.
(3) If at any time during a meeting of the Praja Sabha less than one-fifth of the total number of members are present, it shall be the duty of the President or persons acting as such either to adjourn the Praja Sabha or to suspend the meeting until at least one-fifth of the members are present.

Provisions as to members of the Praja Sabha

26. Oath of members — Every member of the Praja Sabha, other than an ex-officio member, shall, before taking his seat, make and subscribe at a meeting of the Praja Sabha before the President or such person as may be authorised by His Highness in this behalf, an oath or affirmation in the form set out in Schedule I.

27. Vacation of seats — (1) If a member of the Praja Sabha.

(a) becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section, or

(b) by writing under his hand addressed to the Prime Minister resigns his seat,

his seat shall thereupon become vacant.

(2) If for two consecutive sessions of the Praja Sabha a member is without the permission of the President absent from all meetings thereof, the President may declare his seat vacant.

28. Disqualification for membership — (1) A person shall be disqualified for being chosen as or for being a member of the Praja Sabha,

1[(a) if he is an official:

Provided that this shall not apply to the 2[members of the Court, or to the officials nominated under section 14, or to the President, or to the Deputy President, or to the Under Secretaries appointed under section 22].

(b) if he is under 25 years of age;

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

(d) if he is an undischarged insolvent or being a discharged insolvent has not obtained from a competent Court a certificate that his insolvency was caused by misfortune without any miscounduct on his part;

(e) if he is a person against whom a conviction by a Criminal Court for an offence punishable with a sentence of imprisonment for a term of six months or more is subsisting or an order binding him to be of good behaviour has been passed or an order of internment or externment passed by a Magistrate or the Council or His Highness is in force, unless a period of five years or such less period is His Highness may allow in any particular case has elapsed since his release or the expiry of the period specified in the order;

(f) if he has been convicted or has in proceedings for questioning the validity or regularity of an election, been found guilty of any offence or corrupt or illegal practice relating to election, which has been declared by any law to be an offence or has been declared by any rule or order of the Council to be a practice entailing disqualification for membership of the Praja Sabha, unless a period of three years has expired from the date of such conviction of finding;

(g) if, having been elected a member of the Praja Sabha, he has failed to lodge a return of election expenses within the fine and in the manner required by the rules under this Act, unless a period of three years has expired from the date by which the return ought to have been lodged or His Highness has removed the disqualification.

(2) A person shall not be capable of being chosen a member of the Praja Sabha while he is serving a sentence of imprisonment for a criminal offence, or is under detention for failure to furnish security for keeping the peace or for good behaviour.

29. Privileges — Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Praja Sabha there shall be freedom of speech in the Praja Sabha and no member of the Praja Sabha shall be liable to any proceeding in any court in respect of anything said or any vote given by him in the Praja Sabha or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of the Praja Sabha of any report, paper, votes or proceedings.
30. **Allowances and honoraria** — The President, the Deputy President and the Under-Secretaries of the Praja Sabha shall receive such honoraria as may be determined by His Highness. The members of the Praja Sabha shall be entitled to receive such halting and travelling allowances as may be fixed by rules in this behalf.

**Legislative Procedure**

31. **Return of Bills, Assent and Acts** — (1) Where a Bill has been passed by the Praja Sabha, the Prime Minister may, instead of presenting it for the assent of His Highness, return it to the Praja Sabha for reconsideration in whole or in part, together with any amendments which he may recommend.

   (2) Where a Bill has been passed by the Praja Sabha and has not been returned to it by the Prime Minister for reconsideration, it shall be submitted for the assent of His Highness, who may declare either that he assents thereto, or withholds his assent therefrom.

   (3) A Bill which is assented to under the last preceding sub-section shall be published in the Gazette in English and shall then become an Act and have the force of law.

   (4) In all the Regulations in force in the State on the date on which this Act comes into force and in the rules, order proclamations and notifications issued under such Regulations, the word 'Act' shall, unless the context otherwise requires, be substituted for the word 'Regulation'.

32. **Questions and Resolutions** — Subject to such restrictions and conditions as are imposed by this Act or may be imposed by rules or standing orders, any member may —

   (a) ask questions; and

   (b) move resolutions:

   Provided that no question shall be asked and no resolution shall be moved which affects the religious rights, usages, endowments or personal law of any community and is not asked or moved by a member of that community.
33. **Language** — The business of the Praja Sabha shall be transacted in Urdu, but any member may address the Praja Sabha in English:

Provided that the text of all Bills and amendments thereto moved in, and of all Acts, passed by, the Praja Sabha, which shall be treated as authoritative, shall be in English.

34. **Provision in case of failure by the Praja Sabha to pass legislation** — Where the Praja Sabha refuses leave to introduce, or fails to pass in a form recommended by the Council, any Bill, His Highness may declare that the proposed legislation is essential for the good government, safety or tranquility of the State and such Bill shall, on such declaration, become an Act as if it had been passed by the Praja Sabha and assented to by His Highness.

35. **Restrictions on discussion in the Praja Sabha** — If the Prime Minister at any time certifies that the discussion of a Bill introduced or proposed to be introduced in the Praja Sabha or of any specified clause of a Bill, or of any amendment moved or proposed to be moved to a Bill or of any resolution or of an amendment thereto would affect the safety or tranquility of the State or any part thereof, he may direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, or resolution or its amendment, and effect shall be given to the direction.

36. **Procedure for introducing bills affecting religious rights etc** — It shall not be lawful, without the previous sanction of His Highness, to introduce, consider or pass any Bill affecting the religious rights, usages, endowments or personal law of any community, and no such Bill shall be deemed to be passed by the Praja Sabha unless two thirds of the members of the Praja Sabha from the community affected are present at the meeting of the Praja Sabha and vote in its favour.

37. **Bar to discuss the conduct of a member of His Highness' Board of Judicial Advisers or a Judge of the High Court** — No discussion shall be allowed in the Praja Sabha with regard to the conduct of any member of His Highness' Board of Judicial Advisers or of any Judge of the High Court in the discharge of his duties.
Ordinances

38. Ordinances — Notwithstanding anything contained in this Act, the Council may, in case of emergency or where immediate legislation is required in any matter affecting the peace and good government of the State, submit to His Highness an Ordinance and such Ordinance being assented to by His Highness shall have the force of law for a period not exceeding six months from the date of its promulgation.

39. Bar to repeal or alter ordinances — It shall not be lawful for the Praja Sabha to repeal or alter any ordinance passed under section 38.

Standing Orders

40. Standing Orders — Standing order may be made and altered by the Praja Sabha providing for the conduct of business and the procedure to be followed in the Praja Sabha. Any Standing Order which is repugnant to the provisions of this Act or to any rules made thereunder shall to the extent of that repugnancy but not otherwise, be void.

Procedure in Financial Matters

41. Annual Financial Statement — The Council shall in respect of every financial year cause to be laid before the Praja Sabha a statement of the estimated receipts and expenditure of the State for the year:

Provided that the estimated receipts and expenditure relating to the Jagirs of Poonch and Chenani shall be shown separately in the statement.

42. Classification of expenditure — The estimates of expenditure embodied in the annual financial statement shall show separately:

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the State, and

(b) the sums required to meet other expenditure proposed to be met from the revenues of the State.
43. Expenditure charged on the Revenues of the State — The following expenditure shall be the expenditure charged on the revenues of the State —

(a) Expenditure on matters reserved from the cognizance of the Praja Sabha under section 24.

(b) Contributions payable to other Governments.

(c) Expenditure obligatory under any law.

(d) Interest on loans and sinking fund charges.

(e) Expenditure which may be classed by His Highness or the Council as political

(f) Pensions and gratuities granted by His Highness or with his sanction or under the rules sanctioned by His Highness or the Council.

(g) Contributions, grants and scholarships sanctioned by His Highness.

(h) Salaries of the Judges of the High Court and the members of His Highness' Board of Judicial Advisers.

(i) Salaries of such other officers as His Highness may specify from time to time.

(j) Such other expenditure as His Highness may specify from time to time.

44. Decision of the Prime Minister regarding classification of expenditure, final — Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the State shall be decided by the Prime Minister and such decision shall be decided by the Prime Minister and such decision shall be final.

45. Procedure in the Praja Sabha with respect to estimates — (1) So much of the estimates of expenditure as relates to the expenditure charged on the revenues of the State shall not be submitted to the vote of the Praja Sabha.
(2) So much of the said estimates as relates to the other expenditure shall be submitted to the Praja Sabha in the form of demands for grants. The Praja Sabha shall have power to assent or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein:

Provided that

(a) the Council shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein specified, if the Council considers that the expenditure provided for by the demand is necessary for the carrying on of any department or for the discharge of the Council's responsibility for its administration; and

(b) His Highness may in cases of emergency authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of the State or any part thereof or for the carrying on of any department.

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

46. Supplementary expenditure — If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure authorised for that year, the Council shall have the power to authorise that expenditure. A statement of the expenditure so authorised shall be presented to the Praja Sabha along with the financial statement for the following year.

47. Special provisions as to financial Bills — (1) A Bill or amendment making provision :-

(a) for imposing, increasing or decreasing any tax, or

(b) for regulating the borrowing of money or the giving of any guarantee by the Council or for amending the law with respect to any financial obligation undertaken by the Council, or

(c) for declaring any expenditure to be expenditure charged on the revenues of the State,
shall not be introduced or moved except with the previous sanction of the Prime Minister.

(2) A Bill or amendment shall be not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of the State shall not be passed by the Praja Sabha unless the Council has recommended to the Praja Sabha the consideration of the Bill.

PART IV
THE JUDICATURE
THE HIGH COURT

48. Constitution and title of the High Court — (a) The High Court referred to in this Act is the High Court established in the State by Order No. 1 of 1985 and styled as the High Court of Judicature, Jammu and Kashmir State.

(b) The High Court shall consist of a Chief Justice and [one or more other Judges], as His Highness may from time to time think fit to appoint.

49. Tenure of office of Judges — [Every Judge of the High Court including the Chief Justice shall be appointed by His Highness and shall hold office until he attains the age of fifty five years,

Provided that if a chief Justice is taken from a High Court in British India he shall hold office until he attains the age of 65 years;

Provided further that

(a) a Judge may by resignation under his hand addressed to His Highness resign his office;

(b) a Judge may be removed from his office by order of His Highness on the ground of misbehaviour, or infirmity or mind or body.]

50. Procedure of Judges — (1) The Chief Justice shall have rank and precedence before the other Judges.

(2) All the other Judges shall have rank and precedence according to the seniority of their appointments.

51. Qualification of Judges — A person shall not be qualified for appointment as a Judge of the High Court unless he —

(a) is a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than ten years standing; or

(b) has, for at least three years held a judicial office in the State not inferior to that of a District Judge, or

(c) has, for at least five years held a judicial office in the State or in British India, not inferior to that of a subordinate Judge, or a Judge of a small Causes Court; or

(d) is an Advocate of the High Court or of any High Court in British India, and is a barrister of England or Ireland or a member of the faculty of Advocates in Scotland or a law graduate of any recognised University in India who has been practising as an Advocate of the High Court or of any High Court in British India for a period of at least ten years.

1[52. Salaries of Judges — The Chief Justice and every Judge of the High Court shall get such salary or other emoluments, pension, leave and leave allowance as may be prescribed by His Highness in this behalf.]

53. Oath of office — Every person appointed to be a Judge of the High Court shall, before he enters upon his office make and subscribe before His Highness or some person appointed by him an oath according to the form set out in that behalf in Schedule 1 of this Act.

54. **Seal** — The High Court of Judicature shall have and use as occasion may require a seal bearing a device and impression of the Jammu and Kashmir Coat of Arms with an exergue or label surrounding the same, with the following inscription, "The seal of the High Court of Judicature, Jammu and Kashmir". The said seal shall be delivered to and kept in the custody of the Chief Justice or of an officer of the Court from time to time nominated by the Chief Justice.

55. **Writs etc.** — All writs, summonses, precepts, rules, orders and other mandatory processes to be used by the High Court shall run and be in the name and style of His Highness and shall be sealed with the seal of the High Court.

56. **Jurisdiction** — (1) The High Court is a Court of record.

(2) The High Court shall have jurisdiction to hear and determine any original civil suit or other proceeding of which the value is not less than rupees ten thousand and every such suit or proceeding shall be instituted in the High Court.

(3) The High Court shall have jurisdiction to entertain and dispose of such appeals, revisions and other cases — civil, criminal or revenue — as it may be empowered to do under any enactment in force in the State.

57. **Place of sitting** — The usual places of sittings of the High Court shall be Jammu and Srinagar, and His Highness may by order direct for what period the High Court shall sit at each such place.

58. **Special Commissions and Circuit** — Whenever it appears to the Chief Justice convenient that the jurisdiction and powers vested in the High Court by this Act or by any other enactment for the time being in force should be exercised in any place within the jurisdiction of any court subject to the superintendence of the High Court, other than the usual places of sitting of the High Court, or at several such places by way of circuit, one or more Judges of the High Court shall with the previous sanction of His Highness hold court at such place or places.

59. **Procedure in original cases** — Except as provided by any enactment for the time being in force, all original proceedings and suits shall be heard and decided by a single Judge of the High Court.
60. **Procedure in appeals** — (1) Except as otherwise provided by any enactment for the time being in force and subject to any rules made in this behalf, the jurisdiction of the High Court of Judicature may be exercised by a single Judge of the Court or by a bench of two or more Judges of the Court.

(2) Except as otherwise provided by any enactment for the time being in force, an appeal from any original decree or from any order against which an appeal is permitted by any law for the time being in force passed or made by a single Judge of the High Court shall lie to a bench consisting of two other Judges of the High Court.

(3) Unless such an appeal is prohibited by any enactment for the time being in force, an appeal from an appellate decree made by a single Judge of the High Court shall lie to a Bench consisting of two other Judges of the High Court where the Judge who passed the decree declares that the case is a fit one for appeal.

61. **Jurisdiction by Judges of the High Court** — The Chief Justice shall, subject to the provision of this Act, determine which Judge in each case will sit alone and which Judge of the Court will constitute a Bench.

62. **Rule of decision in cases when Judges differ** — (1) When there is a difference of opinion among the Judges composing any Bench of the High Court, the decision shall be in accordance with the opinion of the majority of the Judges.

(2) If there is no such majority, then —

(a) if the bench is a Full Bench, the decision shall be in accordance with the decision of the senior Judge, and

(b) in other cases, the Bench before which the difference has arisen shall either refer the question or the whole case for decision to a Full Bench.

63. **Power to refer question to a Full Bench or a Bench** — (1) Any single Judge, and any Bench of two Judges of the High Court, not being a Full Bench may, in any case, refer for the decision of a Full Bench any question of law, or custom having the force of law, or of the construction of any document, or of the
admissibility of any evidence, arising before such single Judge or Bench and shall dispose of the case in accordance with the decision of the Full Bench.

(2) Any Judge of the High Court may, if he thinks fit, refer any appeal or application coming before him for hearing as a single Judge to a bench of two Judges for decision.

64. Superintendence and control of subordinate Courts — (1) Subject to such rules and regulations as His Highness may make, the High Court shall have superintendence and control over all Courts for the time being subject to its appellate or revisional jurisdiction, and all such Courts shall be subordinate to the High Court.

(2) The Chief Justice, or a Judge of the High Court authorised by him in this behalf, shall from time to time visit and inspect the proceedings of the Courts subordinate to the High Court shall give such directions in matters not provided for by law as may be necessary to secure the due administration of justice.

65. Registrar and Deputy Registrar — (1) The High Court may, subject to the sanction of the Council and on such terms as to salary, allowances, promotion, leave, suspension and dismissal, as may be sanctioned by the Council, appoint a Registrar and a Deputy Registrar.

(2) The High Court may delegate to the Registrar or the Deputy Registrar or both such judicial, quasi-judicial or administrative powers as it may deem fit.

66. Requisitions by His Highness — The High Court shall comply with such requisitions, as may, from time to time, be made under the commands of His Highness for records, returns and statements in such form or manner as His Highness may require.

67. Powers to make rules — (1) The High Court may, consistently with the laws for the time being in force, make rules:

(a) to regulate the practice of the Court;

(b) to regulate the practice of the Courts subordinate thereto;
(c) to provide for the forms to be used in the High Court and the Courts subordinate thereto for such proceedings, books, entries, statistics, and accounts as it thinks fit;

(d) to provide for the inspection of Courts subordinate thereto and the supervision of the work thereof;

(e) to regulate all such matters as it may think fit with a view to promote the efficiency of the judicial and ministerial officers of the High Court and of the Courts subordinate thereto, and the maintaining of proper discipline among those officers; and

(f) prescribing the qualifications for and admission of persons to be Advocates, Vakils and attorneys-at-law of the High Court and providing for the removal or suspension from practice, on reasonable cause, of the said Advocates, Vakils and attorneys-at-law.

(2) Such rules shall be made with approval of a majority of the Judges of the court and the sanction of the [His Highness]'.

68. Admission of Advocates — The High Court shall have the power to approve, admit and enrol such and so many Advocates, Vakils, and attorney-at-law, as it may deem fit.

69. Contempt — The High Court shall have the power to punish with fine not exceeding rupees one thousand or simple imprisonment for a period not exceeding six months or with both any person who is guilty of contempt in relation to itself or to any court subordinate to it:

Provided that the High Court shall not take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it when such contempt is an offence punishable under the Ranbir Penal Code.

70. Saving jurisdiction of a Judge of High Court — Notwithstanding anything provided in any enactment to the contrary, of Judge of the High Court sitting in a Full Bench thereof shall, by reason of his having decided or otherwise dealt with any case, be barred from hearing and deciding the case.

71. His Highness, Board of Judicial Advisers — (1) His Highness may appoint a Board of Judicial Advisers to advise him for the disposal of such civil and criminal appeals as may, under the law for the time being in force, lie to His Highness from the decisions of the High Court, and on such other matters as His Highness may choose to refer to such Board for advice.

(2) Such Board shall be composed of as many members as His Highness may from time to time determine and such members shall be appointed by His Highness for such period and on such terms as to salary and other conditions of service as His Highness may consider proper.

(3) Every person appointed to be a member of the Board shall before he enters upon his office, make and subscribe before His Highness or some person appointed by him an oath according to the form set out in that behalf in Schedule I of this Act.

(4) His Highness may appoint any person as an ex-officio member of the Board of Judicial Advisers to discharge the functions of the Board during the period such Board is not in session, provided that such ex-officio member shall not sit on the Bench of the Board for hearing any appeal or other matter as is referred to such Board for advice.

(5) His Highness may make rules regulating the procedure regarding the filing of appeals to His Highness, the place or places and the period of sittings of the Board of Judicial Advisers and the hearing of such appeals and other matters as are referred to the Board for advice.

(6) The Board may, from time to time with the sanction of His Highness, add to, alter or amend the rules of procedure in such manner as they think fit.

Royal Prerogative

72. Royal Prerogative — Nothing herein contained and nothing contained in any other enactment for the time being in force, shall be deemed to affect in any way or derogate from the inherent power and prerogative of His Highness or to affect in any way his prerogative of mercy and pardon, or his power of remitting, commuting or reducing sentences conditionally, or otherwise.
PART V

MISCELLANEOUS

73. Revenues of the Jammu and Kashmir State — The revenues of the Jammu and Kashmir State shall be received for and in the name of His Highness.

Explanation — The expression "revenues of the Jammu and Kashmir State" means all revenues and public moneys raised or received by the State and includes—

(a) all fines and penalties incurred by the sentence or order of any Court of justice in the State, and all forfeitures, for crimes, of any movable or immovable property in the State, and

(b) all movable and immovable property in the State escheating or lapsing for want to an heir or successor and all property in the State devolving as bona vacantia for want of a rightful owner.

74. Power to acquire property, borrow moneys, make contracts etc — (1) The executive authority of the Council shall extend to the grant, sale, disposition or mortgage of any public property, to the purchase or acquisition of property to the making of contracts and to borrowing on the security of the revenues of the State for the purposes of the Government of the State.

(2) All such contracts and all assurances of property made by the Council shall be executed by such persons and in such manner as the Council may direct or authorise.

(3) Any such person making any such contract or assurance on behalf of the Council shall not be personally liable in respect thereof.

75. Disputes as to interpretation — If any dispute arises as to the interpretation or carrying out of any of the provisions of this Act or the rules made thereunder, the decision of the Council, subject to the provisions of section 5, shall be final.
PART VI
REPEAL AND SAVINGS

76. Repeal and saving of Laws and rules — (1) The Regulations specified in schedule V are hereby repealed to the extent shown in the third column of the said Schedule.

(2) Notwithstanding the repeal of Regulation 1 of 1991 but subject to the other provisions of this Act, all the law in force in the State immediately before the commencement of this Act shall continue in force until altered or repealed or amended by competent authority.

(3) All notifications published, proclamations issued, powers conferred, jurisdiction vested, forms prescribed, local limits defined, and orders, rules and appointments made under any Regulation, Order, Law or Rule, hitherto in force, which are in force immediately before the coming into operation of this Act and which are not inconsistent with any of the a provisions of this Act, shall be deemed to have been respectively published, issued, conferred, vested, prescribed, defined and made under this Act and shall remain in force until repealed or modified either expressly or by implication by competent authority.

Transitional Provision


(a) the elected members and the nominated members, other than ex-officio members, of he Praja Sabha which is in existence at the commencement of this Act shall be deemed to have been elected or nominated under the provisions of this Act, and

(b) the Praja Sabha aforesaid shall continue for the balance of the period of three years from the date of its first meeting.

78. Power of Council to remove difficulties — In respect of any unforeseen difficulties which may arise in relation to the transition from the provisions of the Electoral Regulation XIV of 1990, Regulation 1 of 1991 and Regulation XIII of
1995 to the provisions of this Act and for which provision has not been made in this Act, the Council may make such temporary provision for removing such difficulties as it may consider necessary.

**SCHEDULE I**

*(See sections 8, 26 and 53)*

**FORMS OF OATH**

*From A.*

**Oath for Ministers**

I..........................A.B.............................having been appointed Minister, do solemnly swear that I will be faithful and be truly loyal to His Highness Raj Rejeshwar Maharajadhiraj Shri Maharaja Hari Singh Ji Bahadur, Indar Mahindar Sipar-i-Saltanati-Inglishia, G.C.S.I., G.C.I.E., K.C.V.O., LLD. of Jammu and Kashmir his heirs and successors and that I will faithfully discharge the duty upon which I am about to enter.

I further do solemnly swear that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or shall become known to me as a Minister, except as may be required for the due discharge of my duties as such Minister or as may be specially permitted by His Highness.

*From B*

**Oath for members of His Highness Board of Judicial Advisers and for Judges of the High Court.**

I..........................A.B.............................having been appointed a member of His Highness' Board of Judicial Advisers / Chief Justice (or a Judge) of the High Court of Judicature Jammu and Kashmir State, do solemnly swear that I will be faithful and be truly loyal to His Highness Raj Rajeshwar, Maharajadhiraj Shri Maharaja Harisingh Ji Bahadur, Indar Mahindar Sipar-i-Saltanat-i-Inglishia, G.C.S.I., G.C.I.E., K.C.V.O., L.L.D., of Jammu and Kashmir, his heirs and successors and that I will faithfully perform the duties of my office to the best of my ability, knowledged and judgement and will administer justice according to the law and usages of the realm without fear or favour, affection or ill will.
From C

Oath for Members of the Praja Sabha

I............................A.B..............................having been elected / nominated a Member of this Praja Sabha do solemnly swear that I will be faithful and bear true allegiance to His Highness Raja Rajeshwar Maharajadhiraj Shri Maharaja Harisingh Ji Bahadur, Indar Mahindar Sipar-i-Saltanat-i-Inglishia, G.C.S.I., G.C.I.E., K.C.V.O., L.L.D., of Jammu and Kashmir, his heirs and successors and that I will faithfully discharge the duty upon which I am about to enter.

SCHEDULE II
(See section 14)

GENERAL CONSTITUENCIES

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<tr>
<th>Serial No.</th>
<th>Name of Constituency</th>
<th>Extent of Constituency</th>
<th>No. of members</th>
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<tr>
<td>2.</td>
<td>Jammu Rural Muslim</td>
<td>The Wazarat of Jammu excluding Jammu City</td>
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<td>3.</td>
<td>Udhampur Muslim</td>
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<td>4.</td>
<td>Reasi Muslim</td>
<td>The Wazarat of Reasi</td>
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<td>5.</td>
<td>Kathua Muslim</td>
<td>Do. Kathua</td>
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<td>6.</td>
<td>Mirpur-Kotli</td>
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<td>Ward Nos. 5, 6 and 8, Srinagar City [including Hari Parvat For area and the Moravas within that area]</td>
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<td>Ward No. 4, Srinagar City</td>
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<td>Teshwan</td>
<td>Do. 7 Do.</td>
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(B) HINDU

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<thead>
<tr>
<th>Serial No.</th>
<th>Name of Constituency</th>
<th>Extent of Constituency</th>
<th>No. of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.</td>
<td>Udhampur Hindu</td>
<td>The Wazarat of Udhampur</td>
<td>1</td>
</tr>
<tr>
<td>26.</td>
<td>Reasi Hindu</td>
<td>Do. Reasi</td>
<td>1</td>
</tr>
<tr>
<td>27.</td>
<td>Kathua Hindu</td>
<td>Do. Kathua</td>
<td>1</td>
</tr>
<tr>
<td>28.</td>
<td>Mirpur Hindu</td>
<td>Do. Mirpur</td>
<td>1</td>
</tr>
<tr>
<td>29.</td>
<td>Srinagar South</td>
<td>Ward, Nos. 1,2 &amp; 3, Srinagar City [and Badami Bagh Cantonment Area]</td>
<td>1</td>
</tr>
<tr>
<td>30.</td>
<td>Srinagar North</td>
<td>Word Nos. 4,5,6,7 &amp; 8 Srinagar City [including Hari Parvat Fort Area and the Mohallas within that Area]</td>
<td>1</td>
</tr>
<tr>
<td>31.</td>
<td>Kashmir Hindu</td>
<td>The Wazarats of Kashmir North, Kashmir South (excluding Srinagar City) and Muzaffarabad</td>
<td>1</td>
</tr>
</tbody>
</table>

(C) SIKH

| 32.       | Mirpur-Poonch Sikh   | The Wazarat of Mirpur and Jagir of Poonch | 1 |
| 33.       | West Kashmir Sikh    | The Wazarat of Muzaffarabad and Tehsils Uttarmachipura and Baramulla. | 1 |
**SCHEDULE III**
*(See Section 14)*

**SPECIAL CONSTITUENCIES**

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Constituency</th>
<th>No. of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A)</td>
<td><strong>TAZIMI SARDARS</strong></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>Jammu Province including Chenani and Poonch Jagirs</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>Kashmir Province including Frontier District</td>
<td>1</td>
</tr>
<tr>
<td>(B)</td>
<td><strong>JAGIRDARS, MUAFIDARS AND MUKKARARIDARS HOLDING A JAGIR, MUAFI OR MUKKARARI FROM THE STATE OF NOT LESS THAN Rs. 500 PER ANNUM.</strong></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Jammu Province including Chenani and Poonch Jagirs</td>
<td>1</td>
</tr>
<tr>
<td>4.</td>
<td>Kashmir Province including Frontier District</td>
<td>1</td>
</tr>
<tr>
<td>(C)</td>
<td><strong>LANDHOLDERS OWNING LAND ASSESSED TO LAND REVENUE OF NOT LESS THAN Rs.250 PER ANNUM.</strong></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Jammu Province including Chenani and Poonch Jagirs</td>
<td>1</td>
</tr>
<tr>
<td>6.</td>
<td>Kashmir Province including Frontier District</td>
<td>1</td>
</tr>
<tr>
<td>(D)</td>
<td><strong>PENSIONERS RECEIVING Rs.100 OR MORE AS PENSIONS PER MONTH</strong></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Jammu and Kashmir State</td>
<td>1</td>
</tr>
</tbody>
</table>
**SCHEDULE IV**
(See Section 14)

**AREA FOR WHICH MEMBERS SHALL BE NOMINATED**

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Areas</th>
<th>Community</th>
<th>No. of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Ladakh Wazarat</td>
<td>Buddhist</td>
<td>2</td>
</tr>
<tr>
<td>2.</td>
<td>Skardu Tehsil</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>3.</td>
<td>Kargil Tehsil</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>4.</td>
<td>Gilgit Wazarat</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>5.</td>
<td>North Kashmir Wazarat</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>6.</td>
<td>South Kashmir Wazarat</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>7.</td>
<td>Muzaffarabad Wazarat</td>
<td>Muslim</td>
<td>1</td>
</tr>
<tr>
<td>8.</td>
<td>Jammu Wazarat</td>
<td>Hindu</td>
<td>1</td>
</tr>
<tr>
<td>9.</td>
<td>Udhampur Wazarat</td>
<td>Hindu</td>
<td>1</td>
</tr>
<tr>
<td>10.</td>
<td>Srinagar City</td>
<td>Hindu other than Kashmiri Pandit</td>
<td>1</td>
</tr>
<tr>
<td>11.</td>
<td>Poonch Jagir</td>
<td>Hindu</td>
<td>1</td>
</tr>
<tr>
<td>12.</td>
<td>Chenani Jagir</td>
<td>Hindu</td>
<td>1</td>
</tr>
<tr>
<td>13.</td>
<td>Wazarats Jammu, Udhampur, Reasi, Kathua, Kashmir South and Sri Pratap Singh Pura</td>
<td>Sikh</td>
<td>1</td>
</tr>
</tbody>
</table>
**SCHEDULE V**

*(See Section 76)*

**REPEALED REGULATIONS AND ORDERS**

<table>
<thead>
<tr>
<th>Serial</th>
<th>Name and No. of the Regulation repealed</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Sri Pratap Jammu and Kashmir Laws</td>
<td>Section 12</td>
</tr>
<tr>
<td></td>
<td>Consolidation Regulation IV of 1997</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Order No.I of 1985</td>
<td>The Whole</td>
</tr>
<tr>
<td>3.</td>
<td>The Electoral Regulation No. XIV of 1990</td>
<td>The whole</td>
</tr>
</tbody>
</table>

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APPENDIX V

Instrument of Accession of Jammu and Kashmir State

Whereas, the Indian Independence Act, 1947 provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as India, and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modifications as the Governor-General may by order specify, be applicable to the Dominion of India;

And whereas the Government of India Act, 1935, as so adapted by the Governor-General provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof;

Now, therefore, I Shriman Indar Mahandar Rajrajshwar Maharajadhiraj Shri Hari Singhji, Jammu and Kashmir Naresh Tatha Tibbet adi Desadhhipati, Ruler of Jammu and Kashmir State in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and –

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes of the Dominion, exercise in relation to the State of Jammu and Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935 as in force in the Dominion of India on the 15th day of August 1947 (which Act as so in force is hereinafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by the virtue of this my Instrument of Accession.

3. I accept the matters specified in the Schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an Agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of
the Dominion Legislature shall be exercised by the Ruler of this State, then any such Agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by an Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion Law which applied in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into agreements with the Government of India under any such future constitution.

8. Nothing in this Instrument affects the continuance of my sovereignty in and over this State, or save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October Nineteen Hundred and Forty-seven.

(SD.) HARI SINGH

I do hereby accept this Instrument of Accession.

Dated this twenty-seventh day of October Nineteen Hundred and Forty-Seven.

(SD.) MOUNTBATTEN OF BURMA
(Governor-General of India)
APPENDIX VI

Resolution Adopted at the Two Hundred and Twenty-ninth Meeting of the Security Council, 17th January, 1948 (S/651):

THE SECURITY COUNCIL having heard the statements on the situation in Kashmir from representatives of the Governments of India and Pakistan:

RECOGNISING the urgency of the situation; taking note of the telegram addressed on 6th January by its President to each of the parties and of their replies thereto; and in which they affirmed their intention to conform to the Charter;

CALLS UPON both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeal to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

AND FURTHER REQUESTS each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.
APPENDIX VII

U.N.C.I.P. Resolution of August 13, 1948
(S/1100, Para 75)

The United Nations Commission for India and Pakistan having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Government of India and Pakistan in effecting a final settlement of the situation.

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

Cease-Fire Order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both the Governments.

B. The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, fighting or participating in hostilities on their respective sides).

C. The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.
D. In its discretion and as the Commission may find practicable, the Commission will appoint military observers who, under the authority of the Commission and with the co-operation of both Commands, will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.

B

1. When the Commission shall have notified the Government of India that the tribesmen and the Pakistani nationals referred to in Part IIA-3 hereof
have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers situated where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C

1. Upon signature, the full text of the truce agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission will be made public.

PART III

The Government of India and the Government of Pakistan re-affirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.
APPENDIX VIII

U.N.C.I.P. Resolution of January 5, 1949
(S/1430, Para 143)

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communications dated December 23, and December 25, 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's resolution of August 13, 1948:

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of August 13, 1948, have been carried out and arrangements for the plebiscite have been completed.

3(a). The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

(b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organising and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

(c) The Plebiscite Administrator shall have authority to appoint such staff and observers as he may require.

4.(a) After implementation of Parts I and II of the Commission's resolution of August 13, 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government
of India, the final disposal of Indian and State armed forces, such dis­
posal to be with due regard to the security of the State and the freedom
of the plebiscite :

(b) As regards the territory referred to in A-2 of Part II of the resolution of
August 13, 1948, final disposal of the armed forces in that territory will
be determined by the Commission and the Plebiscite Administrator in
consultation with the local authorities.

5. All civil and military authorities within the State and the principal politi­
cal elements of the State will be required to co-operate with the Plebi­
scite Administrator in the preparation for and the holding of the plebi­
scite.

6(a). All citizens of the State who have left it on account of the disturbances
will be invited and be free to return and to exercise all their rights as
such citizens. For the purpose of facilitating repatriation there shall be
appointed two Commissions, one composed of nominees of India and the
other of nominees of Pakistan. The Commissions shall operate under the
direction of the Plebiscite Administrator. The Governments of India and
Pakistan and all authorities within the State of Jammu and Kashmir will
collaborate with the Plebiscite Administrator in putting this provision into
effect.

(b) All persons (other than citizens of the State) who on or since August 15,
1947, have entered it for other than lawful purpose, shall be required to
leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to
ensure, in collaboration with the Plebiscite Administrator, that :

(a) There is no threat, coercion or intimidation, bribery or other undue influ­
ence on the voters in the plebiscite.

(b) No restrictions are placed on legitimate political activity throughout the
State. All subjects of the State, regardless of creed, caste or party, shall
be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

(c) All political prisoners are released;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimisation.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any one of the responsibilities with which it has been entrusted.

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of August 13, 1948. The Plebiscite Administrator will be fully associated in these consultations.
APPENDIX IX

The Delhi Agreement, 1952

The representatives of Kashmir Government conferred with the representatives of the Indian Government and arrived at an arrangement, which later on known as the "Delhi Agreement, 1952". The main features of this agreement were:

(i) in view of the uniform and consistent stand taken up by the Jammu and Kashmir Constituent Assembly that sovereignty in all matters other than those specified in the Instrument of Accession continues to reside in the State, the Government of India agreed that, while the residuary powers of legislature vested in the Centre in respect of all States other than Jammu and Kashmir, in the case of the latter they vested in the State itself.

(ii) it was agreed between the two Governments that in accordance with Article 5 of the Indian Constitution, persons who have their domicile in Jammu and Kashmir shall be regarded as citizens of India, but the State legislature was given power to make laws for conferring special rights and privileges on the 'State subjects' in view of the 'State Subject Notifications of 1927 and 1932': the State legislature was also empowered to make laws for the 'State Subjects' who had gone to Pakistan on account of the communal disturbances of 1947, in the event of their return to Kashmir;

(iii) as the President of India commands the same respect in the State as he does in the other Units of India, Articles 52 to 62 of the Constitution relating to him should be applicable to the State. It was further agreed that the power to grant reprieves, pardons and remissions of sentences etc., would also vest in the President of India;

(iv) the Union Government agreed that the State should have its own flag in addition to the Union flag, but it was agreed by the State Government

that the State flag would not be a rival of the Union flag should have the same status and position in Jammu and Kashmir as in the rest of India, but for historical reasons connected with the freedom struggle in the State, the need for continuance of the State flag was recognised;

(v) there was complete agreement with regard to the position of the Sadar-i-Riyasat; though the Sadar-i-Riyasat was to be elected by the State Legislature, he had to be recognised by the President of India before his installation as such; in other Indian States the head of the State was appointed by the President and was as such his nominee but the person to be appointed as the Head, had to be a person acceptable to the Government of that State; no person who is not acceptable to the State Government can be thrust on the State as the Head. The difference in the case of Kashmir lies only in the fact that Sadar-i-Riyasat will in the first place be elected by the State legislature itself instead of being a nominee of the Government and the President of India. With regard to the powers and functions of the Sadar-i-Riyasat the following argument was mutually agreed upon:

"(a) the Head of the State shall be a person recognised by the President of the Union on the recommendations of the Legislature of the State;

(b) he shall hold office during the pleasure of the President;

(c) he may, by writing under his hand addressed to the President, resign his office;

(d) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office;

(e) provided that he shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office;"

(vi) with regard to the fundamental rights, some basic principles agreed between the parties were enunciated; it was accepted that the people of the
State were to have fundamental rights. But in view of the peculiar position in which the State was placed, the whole chapter relating to 'Fundamental Rights' of the Indian Constitution could not be made applicable to the State, the question which remained to be determined was whether the chapter on fundamental rights should form a part of the State Constitution or of the Constitution of India as applicable to the State;

(vii) with regard to the jurisdiction of the Supreme Court of India, it was accepted that for the time being, owing to the existence of the Board of Judicial Advisers in the State, which was the highest judicial authority in the State, the Supreme Court should have only appellate jurisdiction:

(viii) there was a great deal of discussion with regard to the "Emergency Powers"; the Government of India insisted on the application of Article 352, empowering the President to proclaim a general emergency in the State; the State Government argued that in exercise of its powers over defence (item 1 on the Union List), in the event of war or external aggression, the Government of India would have full authority to take steps and proclaim emergency but the State delegation was, however, averse to the President exercising the power to proclaim a general emergency on account of internal disturbances.
APPENDIX X

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 1954

C.O.48

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:–

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954.

(2) It shall come into force on the fourteenth day of May, 1954, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1950.

2. [The provisions of the Constitution as in force on the 20th day of June, 1964 and as amended by the Constitution (Nineteenth Amendment) Act, 1966, the Constitution (Twenty-first Amendment) Act, 1967, section 5 of the Constitution (Twenty-third Amendment) Act, 1969, the Constitution (Twenty-fourth Amendment) Act, 1971, section 2 of the Constitution (Twenty-fifth Amendment) Act, 1971, the Constitution (Twenty-sixth Amendment) Act, 1971, the Constitution (Thirtieth Amendment) Act, 1972, section 2 of the Constitution (Thirty-first Amendment) Act, 1973, section 2 of the Constitution (Thirty-second Amendment) Act, 1974, section 2, 5, 6 and 7 of the Constitution (Thirty-third Amendment) Act, 1975, the Constitution (Thirty-fourth Amendment) Act, 1975, the Constitution (Fortieth Amendment) Act, 1976, sections 2, 3 and 6 of the Constitution (Fifty-second Amendment) Act, 1985 and the Constitution (Sixty-first Amendment) Act, 1988 which, in addition to article 1 and article 370, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:–]

THE PREAMBLE

PART I

To article 3, there shall be added the following further proviso, namely:—

"Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State".

PART II

(a) This Part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

(b) To article 7, there shall be added the following further proviso, namely:—

"Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir who, after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India".

PART III

(a) In article 13, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

1[***]

(c) In clause (3) of article 16, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) In article 19, for a period of 2[twenty-five] years] from the commencement of this Order —

1. Clause (b) omitted by C.O. 124 (w.e.f.4-2-1985)
2. Subs. by C.O.69, for "ten years".
3. Subs. by C.O.97, for "twenty".
(i) in clauses (3) and (4) after the words "in the interests of", the words "the security of the State or" shall be inserted;

(ii) in clause (5), for the words "or for the protection of the interests of any Scheduled Tribe", the words "or in the interests of the security of the State" shall be substituted; and

(iii) the following new clause shall be added, namely:

'(7) The words "reasonable restriction" occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable'.

(e) In clauses (4) and (7) of article 22, for the word "Parliament", the words "the Legislature of the State" shall be substituted.

(f) In article 31, clauses (3), (4) and (6) shall be omitted; and for clause (5), there shall be substituted the following clause, namely:

"(5) Nothing in clause (2) shall affect —

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make —

(i) for the purpose of imposing or levying any tax or penalty; or

(ii) for the promotion of public health or the prevention of danger to life or property; or

(iii) with respect to property declared by law to be evacuee property."

(g) In article 31A, the proviso to clause (1) shall be omitted; and for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely:

'(a) "estate" shall mean land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes —

(i) sites of buildings and other structures on such land;
(ii) trees standing on such land;

(iii) forest land and wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of *Jandars and gharats*;

(vi) any *Jagir*, *inam*, *muafi* or *mukarrari* or other similar grant,

but does not include —

(i) the site of any building in any town, or town area or village *abadi* or any land appurtenant to any such building or site;

(ii) any land which is occupied as the site of a town or village; or

(iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned'.

1[(h) In article 32, clause (3) shall be omitted.]

(i) In article 35—

(i) references to the commencement of the Constitution shall be construed as references to the commencement of this Order;

(ii) in clause (a)(i), the words, brackets and figures "clause (3) of article 16, clause (3) of article 32" shall be omitted; and

(iii) after clause (b), the following clause shall be added, namely :

"(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the

1. Subs. by C.O. 89, for clause (h).
expiration of \[^{2}[\text{twenty-five}]\] years from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof".

(j) After article 35, the following new article shall be added, namely:

"35A Saving of laws with respect to permanent residents and their rights — Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State, —

(a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects —

(i) employment under the State Government;

(ii) acquisition of immovable property in the State;

(iii) settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide,

shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part".

(5) PART V

\[^{3}[(a)\text{ For the purposes of article 55, the population of the State of Jammu and Kashmir shall be deemed to be sixty-three lakhs.}\]

(b) In article 81, for clauses (2) and (3), the following clauses shall be substituted, namely:

\[^{1}\text{Subs by C.O. 69, for "ten years".}\]
\[^{2}\text{Subs. by C.O. 97, for "twenty".}\]
\[^{3}\text{Subs. by C.O. 98, for clauses (a) and (b).}\]
"(2) For the purposes of sub-clause (a) of clause (1), —

(a) there shall be allotted to the State six seats in the House of the People;

(b) the State shall be divided into single member territorial constituencies by the Delimitation Commission constituted under the Delimitation Act, 1972, in accordance with such procedure as the Commission may deem fit;

(c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and the public convenience; and

(d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan.

(3) Nothing in clause (2) shall affect the representation of the State in the House of the People until the dissolution of the House existing on the date of publication in the Gazette of India of the final order or orders of the Delimitation Commission relating to the delimitation of parliamentary constituencies under the Delimitation Act, 1972.

(4)(a) The Delimitation Commission shall associate with itself for the purpose of assisting it in its duties in respect of the State, five persons who shall be members of the House of the People representing State.

(b) The persons to be so associated from the State shall be nominated by the Speaker of the House of the People having due regard to the composition of the House.

(c) The first nominations to be made under sub-clause (b) shall be made by the Speaker of the House of the People within two months from the commencement of the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.

(d) None of the associate members shall have a right to vote or to sign any decision of the Delimitation Commission.
(e) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Speaker of the House of the People and in accordance with the provisions of sub-clauses (a) and (b)."

1[(c) In article 133, after clause (1), the following clause shall be inserted, namely:—

'(1A) The provisions of section 3 of the Constitution (Thirtieth Amendment) Act, 1972, shall apply in relation to the State of Jammu and Kashmir subject to the modification that references therein to "this Act", "the commencement of this Act", "this Act had not been passed" and "as amended by this Act" shall be construed respectively as references to "the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974", "the commencement of the said Order", "the said Order had not been made" and "as it stands after the commencement of the said Order".]

2[(d)] In article 134, clause (2), after the words "Parliament may", the words "on the request of the Legislature of the State" shall be inserted.

2[(e)] Articles 135 3[***] and 139 shall be omitted.

4[***]

5[(5A) PART VI

6[(a) Articles 153 to 217, article 219, article 221, articles 223, 224, 224A and 225 and articles 227 to 237 shall be omitted.]

(b) In article 220, references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1960.

1. Ins. by C.O.98.
2. Clauses (c) and (d) relettered as clauses (d) and (e) by C.O.98.
3. The figures "136" omitted by C.O.60.
4. Clauses (f) and (g) omitted by C.O.56.
5. Ins. by C.O.60 (w.e.f. 26-1-1960).
6. Subs. by C.O.89, for clause (a).
[(c) In article 222, after clause (1), the following new clause shall be inserted, namely:—

'(1A) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Governor.]

(6) PART XI

[(a) In article 246, for the words, brackets and figures "clauses (2) and (3)" occurring in clause (1), the word, brackets and figure "clause (2)" shall be substituted, and the words, brackets and figure "Notwithstanding anything in clause (3)," occurring in clause (2) and the whole of clauses (3) and (4) shall be omitted.]

[(b) For article 248, the following article shall be substituted, namely:—

"248 Residuary powers of legislation — Parliament has exclusive power to make any law with respect to —

[(a) prevention of activities involving terrorist acts directed towards over-awing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people.]

[(b) prevention of other activities] directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and

(b) taxes on —

(i) foreign travel by sea or air;

1. Subs. by C.O.74, for clause (c) w.e.f.24-11-1965).
2. Subs. by C.O.66, for clause (a).
3. Clauses (b) and (bb) subs. by C.O.85, for original clause (b).
4. Subs. by C.O.93, for clause (b).
5. Ins. by C.O. 122.
6. Cause(a) relettered as clause (aa) by C.O.122.
7. Subs. by C.O.122 for "prevention of activities".
(ii) inland air travel;

(iii) postal articles, including money orders, phonograms and telegrams".

1[Explanation — In this article, "terrorist act" means any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature].

2[(bb) In article 249, in clause (1), for the words "any matter enumerated in the State List specified in the resolution", the words "any matter specified in the resolution being a matter which is act enumerated in the Union List or in the concurrent List" shall be substituted.]]

(c) In article 250, for the words any matter enumerated in the State List" the words "also to matters not enumerated in the that on list" shall be substituted.

3[**]

(e) to article 253, the following proviso shall be added, namely : —


4[**]

5[(f)] Article 255 shall be omitted.

5[(g)] Article 256 shall be re-numbered as clause (1) of that article, and the following new clause shall be added thereto, namely :—

"(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the

---

1. Ins. by C.O.122.
2. Subs. by C.O.129, for clause (bb).
3. Clause (d) omitted by C.O.129.
5. Clauses (g) and (h) relettered as clauses (f) and (g) by C.O. 66.
Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the state, transfer it to the union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India".

1[***]

2[(h) In clause (2) of article 261, the words "made by Parliament" shall be omitted.

(7) PART XII

3[***]

4[(a)] Clause (2) of article 267, article 273, clause (2) of article 283 [and article 290] shall be omitted.

4[(b)] In articles 266, 282, 284, 298, 299 and 300, references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

4[(c) In articles 277 and 295, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(8) PART XIII

6[***] In clause (1) of article 303, the words "by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule" shall be omitted.

7[***]
(9) PART XIV

1[In article 312 after the words "the States", the brackets and words "(including
the State of Jammu and Kashmir)" shall be inserted.]

2[(10) PART XV

(a) In clause (1)of article 324, the reference to the Constitution shall, in relation
to elections to either House of the Legislature of Jammu and Kashmir be construed

3[(b) In articles 325, 326, 327 and 329, the reference to a State shall be con-
strued as not including a reference to the State of Jammu and Kashmir.

(c) Article 328 shall be omitted.

(d) In article 329, the words and figures "or article 328" shall be omitted.]

4[(e) In article 329A, clauses (4) and (5) shall be omitted.]

(11) PART XVI

5[***]

6[(a)] Articles 331, 332, 333 7[336 and 337] shall be omitted.

6[(b)] In articles 334 and 335, references to the State or the States shall be
construed as not including references to the State of Jammu and Kashmir.

7[(c) In clause (1) of article 339, the words "the administration of the Sched-
uled Areas and" shall be omitted.]

(12) PART XVII

The provisions of the Part shall apply only in so far as they relate to ———

1. Subs by C.O.56, for the previous modification.
2. Subs. by C.O.60, for sub-paragraph (10) (w.e.f.26-1-960).
3. Subs. by C.O. 75, for clauses (b) and (c).
5. Clause (a) omitted by C.O.124.
6. Clauses (b) and (c) relettered as clauses (a) and (b) by C.O.124.

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(i) the official language of the Union;

(ii) the official language for communication between one State and another, or between a State and the Union; and

(iii) the language of the proceedings in the Supreme Court.

(13) PART XVIII

(a) To article 352, the following new clause shall be added, namely:

"1[(6)] No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) 2[unless —

(a) it is made at the request or with the concurrence of the Government of that State, or

(b) where it has not been so made, it is applied subsequently by President to that State at the request or with the concurrence of the Government of that State."

3[(b) In clause (1) of article 356, references to provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions or provision of the Constitution of Jammu and Kashmir.

4[(bb) In clause (4) of article 356, after the second proviso, the following proviso shall be inserted, namely:—

Provided also that in the case of the Proclamation issued under clause (1) on the 18th day of July, 1990 with respect to the State of Jammu and Kashmir, the reference in the first proviso to this clause to "three years" shall be construed as a reference to 5["six years"]].

(c) Article 360 shall be omitted].

1. Subs by C.O.140, for "(4)".
2. Subs. by C.O.100, for certain words.
3. Clauses (b) and (c) subs. by C.O.71, for original clause (b).
4. Added by C.O.151.
5. Subs. by C.O.154, for "four years".
6. Subs. by C.O.71, for original clause (b).
PART XIX

2[(a)] [Article 365] shall be omitted.

5[(b)] To article 367, there shall be added the following clause, namely:

"(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir —

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(aa) references to the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(b) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers:

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir;

1. Original clause (a) omitted by C.O.74.
2. Clauses (b) and (c) relettered as clause (a) and (b) by C.O.74.
3. Subs. by C.O.94, for "Articles 362 and 365".
4. Original clause (c) omitted by C.O.56.
5. Subs. by C.O.74, for clause (b).
6. Subs. by C.O. 74, for clause (b).
2[(d)] references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 were recognised as State subjects under the laws in force in the State or who are recognised by any law made by the Legislature of the State as permanent residents of the State; and

3[(e)] references to a Governor shall include references to the Governor of Jammu and Kashmir:

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as references to the person recognised by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person recognised by the President as being competent to exercise the powers of the Sadar-i-Riyasat.

(15) PART XX

4[(a)] 5[To clause (2) of article 368], the following proviso shall be added, namely:

"Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370";

6[(b)] After clause (3) of article 368, the following clause shall be added, namely:

"(4) No law made by the Legislature of the State of Jammu and Kashmir seeking to make any change in or in the effect of any provision of the Constitution of Jammu and Kashmir relating to—

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1. Clause (d) omitted by C.O.56.
2. Clauses (e) and (f) relettered as clauses (d) and (e) respectively by C.O.56.
3. Subs. by C.O.74, for clause (e).
4. Numbered as clause (a) by C.O.101.
5. Subs. by C.O.91, for "To article 368".
(a) appointment, powers, functions, duties, emoluments, allowances, privileges or immunities of the Governor; or

(b) superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 150 of the Constitution of Jammu and Kashmir,

shall have any effect unless such law has, after having been reserved for the consideration of the President, received his assent."

(16) PART XXI

(a) Articles 369, 371, 1[371A, 2[372A], 373, clauses (1), (2), (3) and (5) of article 374 and 1[articles 376 to 378A and 392] shall be omitted.

(b) In article 372 —

(i) clauses (2) and (3) shall be omitted.

(ii) references to the laws in force in the territory of India shall include references to hidayat, aitans, ishtihars, circulars, robkars, irshads, yadashts, State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir; and

(iii) references to the commencement of the Constitution shall be construed as references to the commencement of this Order;

(c) In clause (4) of the article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, 1996 and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

1. Ins. by C.O.74.
2. Ins. by C.O.56.
3. Subs. by C.O.56, for "articles 376 to 392".
(17) PART XXII

Articles 394 and 395 shall be omitted.

(18) FIRST SCHEDULE

(19) SECOND SCHEDULE

[***]

(20) third schedule

Forms V, VI, VII and VIII shall be omitted.

(21) FOURTH SCHEDULE

(22) SEVENTH SCHEDULE

(a) In the Union List —

(i) for entry 3, the entry "3. Administration of cantonments" shall be substituted;

(ii) entries 8, 9 [and 34], [***] entry 79, and the words "Inter-State migration" in entry 81 shall be omitted;]

[***]

(iii) in entry 72, the reference to the States shall be construed —

(a) in relation to appeals to the Supreme Court from any decision or order of the High Court of the State of Jammu and Kashmir made in an election petition whereby an election to either House of the Legislature of that State has been called in question, as including a reference to the State of Jammu and Kashmir;

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1. Modification relating to paragraph 6 omitted by C.O.56.
2. Subs. by C.O.66 of 1963, for sub-paragraph (22).
3. Item (ii) subs. by C.O.85. It was previously subs. by C.O.72.
4. Subs. by C.O.92., for "34 and 60".
5. The words and figures 'the words "and records" in entry 67' omitted by C.O.95.
6. Original item (iii) omitted by C.O.74.
7. Subs. by C.O.83, for item (iii).
(b) in relation to other matters, as not including a reference to that State; ¹[and]

²[(iv) for entry 97, the following entry shall be substituted, namely:—

³[97. Prevention of activities —

(a) involving terrorist acts directed towards overawing the Government as by
law established or striking terror in the people or any section of the people or
alienating any section of the people or adversely affecting the harmony amongst
different sections of the people;

(b) directed towards disclaiming, questioning or disrupting the sovereignty and
territorial integrity of India or bringing about cession of a part of the territory of
India or secession of a part of the territory of India from the Union or causing
insult to the Indian National Flag, the Indian National Anthem and this Constitu-
tion,

taxes on foreign travel by sea or air, on inland air travel and on postal articles,
including money orders, phonograms and telegrams.

Explanation — In this entry, "terrorist act" has the same meaning as in the
Explanation to article 248.]]

(b) The State List shall be omitted.

⁴[(c) In the Concurrent List —

⁵[(i) for entry 1, the following entry shall be substituted, namely :—

"1. Criminal law (excluding offences against laws with respect to any of the
matters specified in List I and excluding the use of naval, military or air forces or
any other armed forces of the Union in aid of the civil power) in so far as such
criminal law relates to offences against laws with respect to any of the matters
specified in this List");

1. Ins. by C.O.85.
2. Subs. by C.O.93, for item (iv).
3. Subs. by C.O.122 for entry 97 (w.e.f.4-6-1985).
4. Subs. by C.O.69 for clause (c)
5. Subs. by C.O.70 for item (i)
1[ia) for entry 2, the following entry shall be substituted, namely :

"2. Criminal procedure (including prevention of offences and constitution and organisation of criminal courts, except the Supreme Court and the High Court) in so far as it relates to —

(i) offences against laws with respect to any matters being matters with respect to which Parliament has power to make laws; and

(ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country".

(ib) for entry 12, the following entry shall be substituted, namely :

"12. Evidence and oaths in so far as they relate to —

(i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and

(ii) any other matters being matters with respect to which Parliament has power to make laws];

(ic) for entry 13, the entry "13. Civil procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country." shall be substituted;

3[***]"
(iii) entry 3, entries 5 to 10 (both inclusive), entries 14, 15, 17, 20, 21, 27, 28, 29, 31, 32, 37, 38, 41 and 44 shall be omitted;

(iiiia) for entry 42, and entry "42. Acquisition and requisitioning of property, so far as regards acquisition of any property covered by entry 67 of List I or entry 40 of List III or of any human work of art which has artistic or aesthetic value", shall be substituted; and]

(iv)] in entry 45, for the words and figures "List II or List III", the words "this List" shall be substituted.]

(23) EIGHTH SCHEDULE

(24) NINTH SCHEDULE

(a) After entry 64, the following entries shall be added, namely:—


[64E.] Order No. 6H of 1951, dated the 10th March, 1951, regarding Resumption of Jagirs and other assignments of land revenue, etc.]


(b) Entries 87 to 124, inserted by the Constitution (Thirty-ninth Amendment) Act, 1975, shall be renumbered as entries 65 to 102 respectively.

(c) Entries 125 to 188 shall be renumbered as entries 103 to 166 respectively.

(25) TENTH SCHEDULE

(a) for the brackets, words and figures "[Articles 102(2) and 19(2)]", the brackets, word and figures "[Article 102(2)]" shall be substituted.

(b) in clause (a) of paragraph 1, the words "or the Legislative Assembly or, as the case may be, either House of the Legislature of a State" shall be omitted.

(c) in paragraph 2,—

(i) in sub-paragraph (1), in sub-clause (ii) of clause (b) of the Explanation, the words and figures "or, as the case may be, article 188" shall be omitted;

(ii) in sub-paragraph (3), the words and figures "or, as the case may be, article 188" shall be omitted;

(iii) in sub-paragraph (4), the reference to the commencement of the Constitution (Fifty-second Amendment) Act, 1985 shall be construed as a reference to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1989;

(d) in paragraph 5, the words "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 be omitted;

(e) in sub-paragraph (2) of paragraph 6, the words and figures "or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212" shall be omitted;

(f) in sub-paragraph (3) of paragraph 8, the words and figures "or, as the case may be, article 194" shall be omitted.

1. Ins. by C.O.105.
2. Ins. by C.O.108 (w.e.f. 31-12-1977).
APPENDIX XI


Preamble — We, the people of State of Jammu and Kashmir, having solemnly resolved, in pursuance of the accession of this State to India which took place on the twenty-sixth day of October, 1947, to further define the existing relationship of the State with the Union of India as an integral part thereof, and to secure to ourselves—

JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity; and to promote among us all;
FRATERNITY assuring the dignity of the individual and unity of the Nation;

IN OUR CONSTITUTENT ASSEMBLY this seventeenth day of November, 1956, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

PART I
PRELIMINARY

1. Short title and commencement — (1) This Constitution may be called the Constitution of Jammu and Kashmir.

(2) This section and sections 2, 3, 4, 5, 6, 7, 8 and 158 shall come into force at once and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1957, which day is referred to in this Constitution as the commencement of this Constitution.

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

(a) "Constitution of India" means the Constitution of India as applicable in relation to this State;

(b) "existing law" means any law, Ordinance, order, bye-law, rule, notification or regulation passed, made or issued before the commencement of
this Constitution by the Legislature or other competent authority or person having power to pass, make or issue such law, ordinance, order, byelaw, rule, notification or regulation;

(c) "part" means a Part of this Constitution;

(d) "schedule" means a Schedule to this Constitution; and

(e) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "Tax" shall be construed accordingly.

(2) Any reference in this Constitution to Acts or laws of the State Legislature shall be construed as including a reference to an Ordinance made by the Governor.

2 [(3) Any reference in this Constitution to the Sadar-i-Riyasat shall, unless the context otherwise requires, be construed as a reference to the Governor.]

PART II
THE STATE

3. Relationship of the State with the Union of India — The State of Jammu and Kashmir is and shall be an integral part of the Union of India.

4. Territory of the State — The territory of the State shall comprise all the territories which on the fifteenth day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State.

5. Extent of executive and legislative power of the State — The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India.

2. Inserted by Section 3, ibid.
PART III
PERMANENT RESIDENTS

6. Permanent residents — (1) Every person who is, or is deemed to be, a citizen of India under the provisions of the Constitution of India shall be a permanent resident of the State, if on the fourteenth day of May, 1954 —

(a) he was a State Subject of Class I or of Class II; or

(b) having lawfully acquired immovable property in the State, he has been ordinarily resident in the State for not less than ten years prior to that date.

(2) Any person who, before the fourteenth day of May, 1954, was a State Subject of Class I or of Class II and who having migrated after the first day of March, 1947, to the territory now included in Pakistan returns to the State under a permit for resettlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature shall on such return be a permanent resident of the State,

(3) In this section, the expression "State Subject of Class I or of Class II" shall have the same meaning as [State Notification No.1-L/84 dated the twentieth April, 1927, read with State Notification No.13L dated the Twenty-seventh June, 1932.

7. Construction of references to State Subjects in existing laws — Unless the context otherwise requires, all references in any existing law to hereditary State Subjects or to State Subject of Class I or of Class II or of Class III shall be construed as references to permanent residents of the State.

8. Legislature to define permanent residents — Nothing in the foregoing provisions of this part shall derogate from the power of the State Legislature to make any law defining the classes of persons who are, or shall be, permanent residents of the State.

9. Special provision for Bills relating to permanent residents — A Bill making provision for any of the following matters, namely —
(a) defining or altering the definition of the classes of persons who are, or shall be, permanent residents of the State;

(b) conferring on permanent residents any special rights or privileges;

(c) regulating or modifying any special rights or privileges enjoyed by permanent residents;

shall be deemed to be passed by either House of the Legislature only if it is passed by a majority of not less than two-thirds of the total membership of that House.

10. Rights of the permanent residents — The permanent residents of the State shall have all the rights guaranteed to them under the Constitution of India.

PART IV
DIRECTIVE PRINCIPLES OF STATE POLICY

11. Definition — In this Part, unless the context otherwise requires, the State includes the Government and the Legislature of the State and all local or other authorities within the territory of the State or under the control of the Government of the State.

12. Application of the principles contained in this Part — The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the State and it shall be the duty of the State to apply these principles in making laws.

13. State to establish a socialist order of society for the promotion of welfare of the people — The prime object of the State consistent with the ideals and objective of the freedom movement envisaged in "New Kashmir" shall be the promotion of the welfare of the mass of the people by establishing and preserving a socialist order of society wherein all exploitation of man has been abolished and wherein justice—social, economic and political—shall inform all the institutions of national life.

14. Economy of the State to be developed in a planned manner — Consistently with the objectives outlined in the foregoing section, the State shall develop
in a planned manner the productive forces of the country with a view to enriching the material and cultural life of the people and foster and protect —

(a) the public sector where the means of production are owned by the State;

(b) the co-operative sector where the means of production are co-operatively owned by individuals or groups of individuals; and

(c) the private sector where the means of production are owned by an individual or a corporation employing labour; provided that the operation of this sector is not allowed to result in the concentration of wealth or of the means of production to the common detriment.

15. State to ensure speedy improvement in standard of living of rural masses— The State shall endeavour to organise and develop agriculture and animal husbandry by bringing to the aid of the cultivator the benefits of modern and scientific research and techniques so as to ensure a speedy improvement in the standard of living as also the prosperity of the rural masses.

16. Organisation of village Panchayats — The State shall take steps to organise village Panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self-government.

17. State to take steps for promoting crafts and cottage industries — The State shall in order to rehabilitate, guide and promote the renowned crafts and cottage industries of the State, initiate and execute well considered programmes for refining and modernising techniques and modes of production, including the employment of cheap power so that unnecessary drudgery and toil of the workers are eliminated and the artistic value of the products enhanced, while the fullest scope is provided for the encouragement and development of individual talent and initiative.

18. Separation of Judiciary from Executive — The state shall take steps to separate the judiciary from the executive in the public services, and shall seek to secure a judicial system which is humane, cheap, certain objective and impartial whereby justice shall done and shall be seen to be done and shall further strive to ensure efficiency, impartiality and incorruptibility of its various organs of justice, administration and public utility.
19. Right to work and to public assistance in certain cases — The State shall, within the limits of its economic capacity and development, make effective provision for securing —

(a) that all permanent residents men and women equally, have the right to work, that is, the right to receive guaranteed work with payment for labour in accordance with its quantity and quality subject to a basic minimum and maximum wage established by law;

(b) that the health and strength of workers, men and women and the tender-age of children are not abused and that permanent residents are not forced by economic necessity to enter avocations unsuited to their sex, age or strength;

(c) that all workers, agricultural, industrial or otherwise, have reasonable, just and humane conditions of work with full enjoyment of leisure and social and cultural opportunities;

(d) that all permanent residents have adequate maintenance in old age as well as in the event of sickness, disablement, unemployment and other cases of undeserved want by providing social insurance, medical aid, hospitals, sanatoria and health resorts at State expense.

20. Rights of free and compulsory education in certain cases — The State shall endeavour —

(a) to secure to every permanent resident the right to free education up to the University standard;

(b) to provide, within a period of ten years from the commencement of this Constitution, compulsory education for all children until they complete the age of fourteen years; and

(c) to ensure to all workers and employees adequate facilities for adult education and part-time technical, professional and vocational courses.

21. Rights of children — The State shall strive to secure —

(a) to all children the right to happy childhood with adequate medical care and attention; and

(b) to all children and youth equal opportunities in education and employment, protection against exploitation and against moral or material abandonment.
22. Right of women — The State shall endeavour to secure to all women —

(a) the right to equal pay for equal work;

(b) the right to maternity benefits as well as adequate medical care in all employments;

(c) right to reasonable maintenance, extending to cases of married women who have been divorced or abandoned;

(d) the right to full equality in all social, education, political and legal matters;

(e) special protection against discourtesy, defamation, hooliganism and other forms of misconduct.

23. Protection of educational, material and cultural interests of socially and economically backward sections — The State shall guarantee to the socially and educationally backward sections of the people special care in the promotion of their educational, material and cultural interests and protection against social injustice.

24. Duty of the State to improve public health — The State shall make every effort to safeguard and promote the health of the people by advancing public hygiene and by prevention of disease through sanitation, pest and vermin control, propaganda and other measures, and by ensuring widespread, efficient and free medical services throughout the State and, with particular emphasis, in its remote and backward regions.

25. Duty of the State to foster equality and secularism — The State shall combat ignorance, superstition, fanaticism, communalism, racialism, cultural backwardness and shall seek to foster brotherhood and equality among all communities under the aegis of a Secular State.

PART V
THE EXECUTIVE
The *Governor

26. Head of State — (1) The Head of the State shall be designated as the *Governor.

* See foot-note 1 to S.2.
(2) The executive power of the State shall be vested in the *Governor and shall be exercised by him either directly or through officers sub-ordinate to him in accordance with this Constitution.

(3) Nothing in this section shall —

(a) be deemed to transfer to the *Governor any functions conferred by any existing law on any other authority; or

(b) prevent the State Legislative from conferring by law functions on any authority subordinate to the Governor.

1[27. Appointment of Governor — The Governor shall be appointed by the President by warrant under his hand and seal:

Provided that the person holding office as Sadar-i-Riyasat immediately before the commencement of the Constitution of Jammu and Kashmir (Sixth Amendment) Act, 1965, shall on such commencement be the Governor and shall, subject to the other provisions of this Constitution, continue to hold office as Governor until the remaining period of his term for which he was elected as Sadar-i-Riyasat expires.]

28. Term of Office — (1) The *Governor shall hold office during the pleasure of the President.

(2) The *Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to foregoing provisions of this section, the *Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that he shall, notwithstanding the expiration of his term continue to hold office until his successor enters upon his office.

2[29. Qualifications for appointment as Governor — No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty years].

* See foot-note 1 to S.2.
30. **Conditions of Office** — (1) The *Governor shall not be a member of either House of Legislature and if a member of either House be [appointed] as *Governor, he shall be deemed to have vacated his seat in the House on the date on which he enters upon his office as *Governor.

(2) The *Governor shall not hold any other office of profit.

(3) The *Governor shall be entitled to such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the *Governor shall not be diminished during his term of office.

2[31. **Oath of Office** — The Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court or, in his absence, the seniormost Judge of that Court available, an oath or affirmation in the following form, that is to say —

`do swear in the name of God I, A. B., Solemnly affirm that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of Jammu and Kashmir and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of the State).`

3[32. Omitted].

4[33. **Discharge of the functions of the Governor in certain contingencies**— The President may make such provision as he thinks fit for the discharge of functions of the Governor in any contingency not provided for in this Part].

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1. Subs. for "elected and recognised" by S.6. *ibid.*
2. * See foot-note 1 to S.2.
4. Subs. by S.9, *ibid.*
34. Power to grant pardons, reprieves, etc — The *Governor shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power to the State extends.

The Council of Ministers

35. Council of Ministers to aid and advise the *Governor — (1) There shall be a Council of Ministers with 1[Chief Minister] at the head to aid and advise the *Governor in the exercise of his functions.

(2) All functions of the *Governor except those under sections 36, 38 and 92 shall be exercised by him only on the advice of the Council of Ministers.

(3) The question whether any, and if so what, advice was tendered by Ministers to the *Governor shall not be enquired into in any court.

36. Appointment of Ministers — The 2[Chief Minister] shall be appointed by the *Governor and the other Ministers shall be appointed by the *Governor on the advice of the 2[Chief Minister].

37. Minister's responsibility to the Legislature — (1) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(2) A Minister who for any period of six consecutive months is not a member of either House of Legislature shall upon the expiry of that period cease to be a Minister.

38. Deputy Ministers — The *Governor may on the advice of the 4[Chief Minister] appoint from amongst the members of either House of Legislature such number of Deputy Ministers as may be necessary.

39. Tenure of Office — The Ministers and the Deputy Ministers shall hold office during the pleasure of the *Governor.

* See foot-note 1 to S.2.
1. Subs. for "Prime Minister" by S.2., ibid.
40. **Oaths of Office and Secrecy** — Before a Minister or a Deputy Minister enters upon his office, the *Governor or, in his absence, any person authorised by him, shall administer to the Minister or the Deputy Minister the oaths of office and of secrecy according to the form set out for the purpose in the Fifth Schedule.

41. **Salaries and Allowances of Ministers and Deputy Ministers** — The salaries and allowances of Ministers and Deputy Ministers shall be such as the Legislature may from time to time by law determine and, until so determined, shall be such as are payable respectively to the Ministers and the Deputy Ministers under the Jammu and Kashmir Minister's Salaries Act, 1956 (Act VI of 1956), the Jammu and Kashmir Ministers' Travelling Allowances Rules for the time being in force, and the Jammu and Kashmir Deputy Minister's Salaries and Allowances Act, S.2010 (Act VIII S.2010).

*The Advocate General*

42. **Advocate General for the State** — (1) The *Governor shall appoint a person who is qualified to be a Judge of the High Court, to be Advocate General for the State.

   (2) It shall be the duty of the Advocate General to give advice to the Government upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Government, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

   (3) In the performance of his duties, the Advocate General shall have the right of audience in all courts in the State.

   (4) The Advocate General shall hold office during the pleasure of the Governor and receive such remuneration as the Governor may determine.

*Conduct of Government Business*

43. **Rules of Business** — The *Governor shall make rules for the more convenient transaction of the business of the Government of the State and for the allocation among Ministers of the said business.

* See Foot-note 1 to S.2.
44. Duties of Chief Minister — It shall be the duty of the Chief Minister—
(a) to communicate the Governor all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;
(b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and
(c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

45. Form of orders and instruments and their authentication — (1) All executive action of the Government shall be expressed to be taken in the name of the Governor or of the Government of Jammu and Kashmir.

(2) Orders and other instruments made and executed in the name of the Governor or of the Government of Jammu and Kashmir shall be authenticated in such manner as may be specified in the rules to be made by the Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor or, as the case may be, by the Government of Jammu and Kashmir.

PART VI
THE STATE LEGISLATIVE
Composition of the State Legislature

46. Legislature for the State — There shall be a Legislature for the State which shall consist of the Governor, and two Houses to be known respectively as the Legislative Assembly and the Legislative Council.

47. Composition of Legislative Assembly — (1) The Legislative Assembly shall consist of one hundred members chosen by direct election from territorial constituencies in the State:

* See foot-note 1 to S.2.
Provided that the Governor may if he is of opinion that women are not adequately represented in the Assembly, nominate not more than two women to be members thereof.

1[(2) For purposes of sub-section (1), the State shall be divided into single member territorial constituencies by such authority and in such manner as the Legislature may by law determine].

(3) Upon the completion of each census, the number, extent and boundaries of the territorial constituencies shall be readjusted by such authority and in such manner as the Legislature may by law determine:

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

48. Provision relating to Pakistan occupied territory — Notwithstanding anything contained in section 47, until the area of the State under occupation of Pakistan ceases to be so occupied and the people residing in that area elect their representatives —

(a) 2[twenty-four seats] in the Legislative Assembly shall remain vacant and shall not be taken into account for reckoning the total membership of the Assembly; and

(b) the said area shall be excluded in delimiting the territorial constituencies under section 47.

3[48-A. Holding of general election in the event of earlier dissolution of Legislative Assembly — Notwithstanding anything contained in this Constitution if upon the completion of a census, but before the final re-adjustment of territorial constituencies, the Legislative Assembly is dissolved prior to the expiry of its duration and the Governor is satisfied that holding of general election without delay is

1. Subs. by the Constitution of Jammu and Kashmir (Twelfth Amendment) Act, 197, S.2. (w.e.f. 17-9-197.)
3. Inserted by ibid., S.4.
necessary, he may after consulting the Election Commission, by notification direct that the general election shall be held on the basis of the last preceding delimitation of territorial constituencies].

49. Reservation of seats for Scheduled Castes — (1) There shall be reserved in the Legislative Assembly for the Scheduled Castes in the State a number of seats which 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 bears to the population of the State.

Explanation — In this sub-section —

1[(a) the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published; and]

(b) "Scheduled Castes" means the castes, races or tribes or part of, or groups within, castes, races or tribes which are for the purposes of the Constitution of India deemed to be Scheduled Castes in relation to the State under the provisions of Article 341 of that Constitution.

(2) The provisions of sub-section (1) shall cease to have effect the expiration of a period of 2[thirty-years] from the commencement of this Constitution:

Provided that such cesser shall not effect any representation in the Legislative Assembly until the dissolution of the then existing Assembly.

50 Composition of Legislative Council — (1) Legislative Council shall consist of thirty-six members, chosen in the manner provided in this section.

(2) Eleven members shall be elected by the members of the Legislative Assembly from amongst persons who are residents of the Province of Kashmir and are not members of the Legislative Assembly:

Provided that of the members so elected, at least one shall be a resident of Tehsil Ladakh and at least one shall be a resident of Tehsil Kargil.

(3) Eleven members shall be elected by the members of the Legislative Assembly from amongst persons who are residents of the Province of Jammu and are not members of the Legislative Assembly:

Provided that of the members so elected, at least one shall be a resident of Doda District and at least one shall be a resident of Poonch District.

(4) One member shall be elected by each of the following electorates, namely—

(a) the members of municipal council, town area committees and notified area committees in the Province of Kashmir;

(b) the members of municipal council, town area committees and notified area committees in the Province of Jammu;

(5) Two members shall be elected by each of the following electorates, namely—

(a) the members of the Panchayats and such other local bodies in the Province of Kashmir as the Governor may by order specify;

(b) the members to the Panchayats and such other local bodies in the Province of Jammu as the Governor may by order specify.

(6) Eight members shall be nominated by the Governor, not more than three of whom shall be persons belonging to any of the socially or economically backward classes in the State, and the others shall be persons having special knowledge or practical experience in respect of matters such as literature, science, art, co-operative movement and social service.

1. Clauses (c) and (d) omitted by the Constitution of Jammu and Kashmir (Fifth Amendment) Act, 1963, S.2.
(7) Elections under sub-sections (2) and (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote.

General Provision

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

1[(a) is a permanent resident of the State, and makes and subscribes before some person authorised in that behalf by the Election Commission of India an oath or affirmation according to the form set out for the purpose in the Fifth 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 any law made by Legislature.

52. Duration of Legislature — (1) The Legislative Assembly, unless sooner dissolved, shall continue for 2[six years] from the date appointed for its first meeting and no longer and the expiration of the said period of 2[six years] shall operate as a dissolution of the Assembly;

Provided that the said period may, while a Proclamation of Emergency issued under article 352 of the Constitution of India is in operation, be extended by the State Legislature 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 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

* See foot-note 1 to S.2.
expiration of every second year in accordance with the provisions made in that
behalf by Legislature by law.

53. Session of the Legislature, prorogation and dissolution — (1) The *Governor shall from time to time summon each House of the Legislature 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 Houses of either House;
(b) dissolve the Legislative Assembly.

54. Right of Governor to address and send message to the House or
Houses — (1) The *Governor may address either House of Legislature, or both
Houses assembled together, and may for that purpose require the attendance of
members.

(2) The *Governor may send messages to either House, whether with respect to
a Bill then pending in the Legislature or otherwise, and a House to which any
message is so sent shall with all convenient dispatch consider any matter required
by the message to be taken in consideration.

55. Special address by the Governor — (1) At the commencement of the first
session after each general election to the Legislative Assembly and at the com-
mencement of the first session of each year, the *Governor shall address both Houses
of Legislature assembled together and inform the Legislature of the causes of its
summons.

(2) Provision shall be made by the rules regulating the procedure of either House
for the allotment of time for discussion of the matters referred to in such address.

56. Rights of Ministers and Advocate General as respects the House —
Every Minister and the Advocate General shall have the right to speak in, and

* See foot-note 1 to S.2.
othersie to take part in the proceedings of, both Houses and to speak in, and other­wise to take part in the proceedings of, any Committee of the Legislature of which he may be named a member, but shall not, by virtue of this section, be entitled to vote.

Officer of the Legislature

57. The Speaker and Deputy Speaker of the Legislative Assembly — The Legislative Assembly shall, as soon as may be choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member, to be speaker or Deputy Speaker of the Legislative Assembly —

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

59. Power of the Deputy Speaker or other person to perform the duties of the office of or to act as Speaker — (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or if the office of the Deputy Speaker is also vacant, by such member of the Assembly as the *Governor may appoint for the purpose.

* See foot-note 1 to S.2.
(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

60. The Speaker and the Deputy Speaker not to preside while a resolution for his removal from office is under consideration — (1) At any sitting of the Legislative Assembly, while any resolution, for the removal of the Speaker from his office is under consideration, the Speaker or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of sub-section (2) of section 59 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 67, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

61. The Chairman and Deputy Chairman of the Legislative Council — (1) The Legislative Council shall, as soon as may be, choose two Members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

(2) The provisions of section 58, 59 and 60 shall apply in relation to the Chairman and Deputy Chairman of the Legislative Council with the substitution of the words "Chairman" and "Council" for the words "Speaker" and "Assembly" respectively, wherever they occur in those provisions, and with the omission of the further proviso to section 58.
62. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman — There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by Legislature by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Third Schedule.

63. Secretariat of the Legislature — (1) Each House of the Legislature shall have a separate secretariat staff:

Provided that nothing in this sub-section shall be construed as preventing the creation of posts common to both Houses.

(2) The Legislature may by law regulate the recruitment and the conditions of service of persons appointed, to the secretarial staff of each House.

(3) Until provision is made by the Legislature under sub-section (2), the Governor may, after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said sub-section.

Conduct of Business

64. Oath or affirmation by members — Every member of the Legislative Assembly or the Legislative Council 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 Fifth Schedule.

65. Quorum — Save as otherwise provided by the rules of procedure of the House, the quorum to constitute a meeting of the Legislative Assembly and of the Legislative Council shall be twenty and ten respectively.

* See foot-note 1 to S.2.
66. Power of Houses to act notwithstanding vacancies — A House of the Legislature shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

67. Voting in the Houses — (1) Save as otherwise provided in this Constitution, all questions at any sitting of a House of the Legislature shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman, or person acting as such.

(2) The Speaker or Chairman or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

Disqualifications of Members

68. Vacation of Seats — (1) No person shall be a member of both Houses of the Legislature and provision shall be made by Legislature 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) If a member of a House of the Legislature 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

Provided that 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.

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

* See foot-note 1 to S.2.
Provided that in computing the said period of sixty days no account shall be taken of —

(a) such absence caused by reason beyond his control; or

(b) any period during which the House is prorogued or is adjourned for more than four consecutive days.

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

(a) if he holds any office of profit under the Government of India or the State Government or any other State Government within the Union of India, other than an office declared by Legislature 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 permanent resident of the State or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance of adherence to a foreign State;

(e) if he is so disqualified by or under any law made by the Legislature.

(2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India, the State Government or any other State Government within the Union of India, by reason only that he is a Minister, or a Deputy Minister.

70. Decision on question as to disqualifications of members — (1) If it is represented to the Speaker or the Chairman that a member of the Legislative Assembly or, as the case may be, of the Legislative Council is disqualified for being such a member under the provisions of section 69, or was so disqualified at any time since being chosen as a member, and the member does not admit that he is or
was so disqualified, the question shall be referred to the High Court for decision and its decision shall be final.

Provided that where the disqualification in question arises from circumstances which subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained —

(a) unless it is made after the expiration of the period prescribed by law for presenting an election petition calling in question the election of the member, and

(b) if such an election petition is pending or has been tried, unless the Speaker or Chairman, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised or, as the case may be, was not raised in the proceedings on the election petition.

(2) Where on a representation made under sub-section (1) the member admits that he is or was disqualified under the provisions of section 69, or where on a reference made under that sub-section the High Court decided that the member is or was so disqualified, his seat shall thereupon become vacant.

71. Penalty for sitting and voting before making oath or affirmation when not qualified or when disqualified — If a person sits or votes as a member of the Legislative Assembly or the Legislative Council before he has complied with the requirements of section 64 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 the Legislature, he shall be liable in respect of each day on which he so sits or votes to a penalty of one hundred rupees as debt due to the State.

Powers, Privileges and immunities of the State Legislature and its Members

72. Powers, Privileges, etc. of the Houses of Legislature and of the members and committees thereof — (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature.
(2) No member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of a House of the Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature and of the members and the committees of a House of the Legislature shall be such as may from time to time be defined by Legislature by law, and until so defined, shall be those of the Parliament of India and of its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of any Committee thereof as they apply in relation to members of that Legislature.

73. Salaries and allowances of members — Members of the Legislative Assembly and the Legislative Council shall be entitled to receive such salaries and allowances as may from time to time be determined by Legislature by law and, until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly.

Legislative procedure

74. Provision as to introduction and passing of Bills — (1) Subject to the provision of section 76 and 84 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature.

(2) Subject to the Provisions of sections 75 and 76 a Bill shall not be deemed to have been passed by the Legislature unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature shall not lapse by reason of the prorogation of the House or Houses thereof.
(4) A Bill pending in the Legislative Council which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

75. Restriction on Powers of Legislative Council as to Bills other than Money Bills — (1) If after a Bill has been passed by the Legislative Assembly and transmitted to the Legislative Council —

(a) the Bill is rejected by the Council; or

(b) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council —

(a) the Bill is rejected by the Council; or

(b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or

(c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree;

the Bill shall be deemed to have been passed by the Houses of the Legislature in the form in which it was passed by the Legislative Assembly for the second time with such amendments if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.
(3) Nothing in this section shall apply to a Money Bill.

76. Special Procedure in respect to Money Bills — (1) A Money Bill shall not be introduced in the Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly, it shall be transmitted to the Legislative Council for its recommendations and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

77. Definition of "Money Bills" — (1) For the purposes of this Part, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely —

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;
(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of the State;

(e) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or

(g) any matter incidental to any of the matters specified in clauses (a) to (f)

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

(3) If any question arises whether a Bill introduced in the Legislature 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 transmitted to the Legislative Council under section 76 and when it is presented to the *Governor for assent under section 78, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

78. Assent to Bills — When a Bill has been passed by both Houses of the Legislature, it shall be presented to the *Governor and the *Governor shall declare either that he assents to the Bill or that he withholds assent therefrom:

* See foot-note 1 to S.2.
Provided that the *Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Houses shall reconsider the Bill accordingly and if the Bill is passed again by the Houses with or without amendment and presented to the *Governor for assent, the *Governor shall not withhold assent therefrom.

**Procedure in Financial Matters**

79. **Annual Financial Statement** — (1) The *Governor shall in respect of every financial year cause to be laid before both Houses of the Legislature a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately:—

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State.

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of the State —

(a) the emoluments and allowances of the *Governor and other expenditure relating to his office;

(b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and of the Chairman and the Deputy Chairman of the Legislative Council;

* See foot-note 1 to S.2.
(c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of the loans and the service and redemption of debt;

(d) expenditure in respect of the salaries and allowances of the Judges of the High Court;

(e) any sums required to satisfy any judgement, decree or award of any court or arbitral tribunal;

(f) any other expenditure declared by the Constitution, or by Legislature by law, to be so charged.

80. Procedure in Legislature with respect to estimates — (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the State shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the legislature of any of those estimates.

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

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

81. Appropriation Bill — (1) As soon as may be after the grants under section 80 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet —

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the Houses.

* See foot-note 1 to S.2.
(2) No amendment shall be proposed to any such Bill in either House of the Legislature which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the provisions of sections 82 and 83, no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this section.

82. Supplementary, additional or excess grants — (1) The *Governor shall

(a) if the amount authorised by any law made in accordance with the provisions of section 81 to be expended for a particular service for the current financial year is found to be insufficient for the purpose of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year; or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year;

cause to be laid before the Houses of the Legislature another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly a demand for such excess, as the case may be.

(2) The provisions of sections 79, 80 and 81 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

* See foot-note 1 to S.2.
83. Votes on account, votes of credit and exceptional grants — (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power —

(a) to make any grant to advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 80 for the voting of such grant and the passing of the law in accordance with the provisions of section 81 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the services the demand cannot be stated with the details ordinarily given in an annual financial statement;

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

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

(2) The provisions of sections 80 and 81 shall have effect in relation to the making of any grant under sub-section (1) and to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

84. Special provisions as to financial Bills — (1) A Bill or amendment making provision for any of the matters specified in clauses (a) to (f) of sub-section (1) of section 77 shall not be introduced or moved except on the recommendation of the *Governor and a Bill making such provision shall not be introduced in the Legislative Council:

* See foot-note 1 to S.2.
Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

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

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the State shall not be passed by a House of the Legislature unless the *Governor has recommended to that House the consideration of the Bill.

**Procedure Generally**

85. **Rules of Procedure** — (1) A House of the Legislature may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under sub-section (1) the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Constituent Assembly while discharging the functions of the Legislative Assembly shall have effect in relation to each House of the Legislature subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly of the Chairman of the Legislative Council, as the case may be.

(3) The *Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to communications between the two Houses.

* See foot-note 1 to S.2.
86. Regulation by law of procedure in the Legislature in relation to financial business — The Legislature may, for the purpose of the timely completion of financial business, regulate by law, the procedure of, and the conduct of business in, the Houses of the Legislature in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the state and, if and so far as any provision of any law so made is inconsistent with any rule made by either House of the Legislature under sub-section (1) of section 85 or with any rule or standing order having effect in relation to either House of the Legislature under sub-section (2) of that section, such provisions shall prevail.

87. Language to be used in the Legislature — (1) Business in the Legislature shall be transacted in Urdu or in English:

Provided that the Speaker of the Legislative Assembly or the Chairman of the Legislative Council or person acting as such, as the case may be, may permit any member to address the House in Hindi, or if he cannot adequately express himself in any of the aforesaid languages, to address the House in his mother-tongue.

(2) The official record of the proceedings in the Legislature shall be kept in Urdu as well as in English.

(3) The text of all Bills and amendments thereof moved in and of all Acts passed by the Legislature which shall be treated as authoritative, shall be in English.

88. Restriction on discussion in the Legislature — No discussion shall take place in the Legislature with respect to the conduct of any Judge of the Supreme Court or of the High Court in the discharge of his duties.

89. Courts not to inquire into proceedings of the Legislature — (1) The validity of any proceedings in the Legislature shall not be called in question on the grounds of any alleged irregularity of procedure.

(2) No officer or member of the Legislature in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

* See foot-note 1 to S.2.
90. Requirements as to recommendations regarded as matters of procedure only — No Act of the Legislature and no provision in any such Act shall be invalid by reason only that some recommendations required by this Constitution was not given, if assent to that Act was given by the *Governor.

Legislative Power of the *Governor

91. Power of Governor to promulgate Ordinances during recess of Legislature — (1) If at any time, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the power of making an Ordinance under this section shall extend only to those matters with respect to which the Legislature has power to make laws.

(2) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Legislature assented to by the *Governor but every such Ordinance —

(a) shall be laid before both the Houses of the Legislature, and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, upon the resolution being agreed to by the Legislative Council, and

(b) may be withdrawn at any time by the Governor.

1[(3) Notwithstanding anything in this Constitution, the satisfaction of the Governor mentioned in sub-section (1) shall be final and conclusive and shall not be questioned in any Court on any ground.]

Explanation — Where the Houses of the Legislature are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the latter of those dates for the purposes of this sub-section.

* See foot-note 1 to S.2.
92. Provisions in case of failure of constitutional machinery in the State—

(1) If at any time the *Governor 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 *Governor may by Proclamation—

(a) assume to himself all or any of the function of the Government of the State and all or any of the powers vested in or exercisable by anybody or authority in this State;

(b) make such incidental and consequential provisions as appear of the *Governor 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 provision of this Constitution relating to anybody or authority in the State:

Provided that nothing in this section shall authorise the *Governor to assume himself any of the powers vested in or exercisable by the High Court or to suspend in whole or in part the operation of any provision of this Constitution relating to the High Court.

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

(3) Any such proclamation whether varied under sub-section (2) or not shall except where it is a Proclamation revoking a previous Proclamation, cease to operate on the expiration of six months from the date on which it was first issued.

(4) If the *Governor by a Proclamation under this section assumes to himself any of the powers of the Legislature to make laws, any law made by him in the exercise of that power shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the proclamation ceases to have effect, unless sooner repealed or re-enacted by an Act of the Legislature, and

* See foot-note 1 to S.2.
any reference in this Constitution to any Acts of or laws made by the Legislature shall be construed as including a reference to such law;

(5) No Proclamation under sub-section (1) shall be issued except with the concurrence of the President of India.

(6) Every Proclamation under this section shall, except where it is a proclamation revoking a previous proclamation be laid before each House of the legislature as soon as it is convened.

PART VII

THE HIGH COURT

93. Constitution of High Court — (1) There shall be a High Court for the State, consisting of a Chief Justice and two or more other Judges.

(2) The High Court exercising jurisdiction in relation to the State immediately before the commencement of this Constitution shall be the High Court for the State.

94. High Court to be a Court of record — The High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself or of the courts subordinate to it.

95. Appointment and tenure of office of Judges — 1[(1) Every Judge of the High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the *Governor and in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court and 2[shall hold office, in the case of an additional or acting judge, as provided in section 100-A, and in any other case until he attains the age of 3[sixty-two years].

4[(2) If any question arises as to the age of a Judge of the High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.]

* See foot-note 1 to S.2.
2. Subs. by the Constitution of Jammu and Kashmir (First Amendment) Act, 1959, S.2 for "shall hold office until he attains age of Sixty years".
3. Subs. by S.11 Ibid. for "Sixty years."
4. Ins. by S.11, ibid.
96. Qualifications for appointment — A person shall not be qualified for appointment as a Judge of the High Court unless he is a citizen of India, and —

(a) has for at least ten years held a judicial office in the State or in any other part of India; or

(b) has for at least ten years been an advocate of the State High Court or of any other High Court in India or of two or more such courts in succession.

Explanation — For the purposes of this section in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate.

97. Oath or affirmation by Judges of the High Court — Every person appointed to be a Judge of the High Court shall, before he enters upon his office, 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 Fifth Schedule.

98. Salaries, etc. of Judges — (1) There shall be paid to the Judges of the High Court such salaries as are specified in the Fourth Schedule.

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension [*] as are specified in the Fourth Schedule:

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

99. Resignation or removal of a Judge of the High Court — (1) A Judge of the High Court may, by writing under his hand addressed to the President, resign his office.

2(2) Omitted. 2(3) Omitted.

2. Sub-sections (2) and (3) of S.99 omitted by S.4, ibid.
100. Appointment of acting Judges — (1) When the office of the Chief Justice is vacant or when the Chief Justice is by reason of absence or otherwise unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

(2) Omitted.

100-A. Appointment of additional and acting Judges — (1), If by reason of any temporary increase in the business of the High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of the High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

(3) No person appointed as an additional or acting Judge of the High Court shall hold office after attaining the age of 62 years.

100-B. Appointment of retired Judges at sittings of the High Court — Notwithstanding anything in this Part, the Chief Justice of the High Court may at any time, with the previous consent of the President request any person who has held the office of a Judge of that Court or of any other High Court in India to sit and act as Judge of the High Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be a Judge of the High Court:

1. Omitted by S.5. ibid.
2. Ins. by S.6, ibid.
4. Ins. by S.13, ibid.
Provided that nothing in this section shall be deemed to require any such person as aforesaid to sit and act as a Judge of the High Court unless he consents so to do.]

101. Place of sitting of the Court — (1) The usual places of sitting of the High Court shall be Jammu and Srinagar.

(2) The Chief Justice shall, with the approval of the *Governor, determine the number of Judges who shall sit from time to time at Jammu and at Srinagar for such period as may be deemed necessary.

(3) Whenever it appears to the Chief Justice that it is desirable that the High Court should hold its sitting at a place other than Srinagar and Jammu, one or more Judges of the High Court as determined by him shall, with the previous approval of the *Governor, sit at such place.

102. Saving of existing jurisdiction of the High Court — Subject to the provisions of this Constitution and to the provisions of any law for the time being in force, the jurisdiction of and the law administered in the High Court and the respective powers of the Judges thereof in relation to the administration of Justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof, sitting alone or in Division Courts, shall be the same as immediately before he commencement of this Constitution.

103. Power to issue certain writs — The High Court shall have power to issue to any person or authority, including in appropriate cases any Government within the State, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, qua warranto and certiorari, or any of them, for any purpose other than those mentioned in clause (2-A) of Article 32 of the Constitution of India.

104. Superintendence and control of subordinate Courts — (1) The High Court shall have superintendence and control over all Courts for the time being subject to its appellate or revisional jurisdiction and all such courts shall be subordinate to the High Court.

* See foot-note 1 to S.2.
(2) Without prejudice to the generality of the foregoing provision, the High Court may —

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such court.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under sub-section (2) or sub-section (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

105. Transfer of cases to High Court — If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution or the Constitution of India the determination of which is necessary for the disposal of the case, it shall withdraw the case 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 judgement on such question and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgement.

'[106. Omitted.]
107. Seal — (1) The High Court shall have and use as occasion may require a seal bearing a device and impression of the State emblem with an exergue or label surrounding the same with the inscription:

"The seal of the High Court of Jammu and Kashmir".

(2) The seal shall be delivered to, and kept in the custody of, the Registrar or such other officer of the court as the Chief Justice may designate in this behalf.

108. Officials and Servants of the High Court — (1) Appointments of officers and servants of the High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the court as he may direct:

Provided that the *Governor may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature, the conditions of service of the officers and servants of the High Court shall be such as may be prescribed by rules made by the High Court with the approval of the *Governor.

(3) The administrative expenses of the High Court including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.

Subordinate Courts

109. Appointment of district Judges — (1) Appointment of persons to be, and the posting and promotion of, district judges in the State shall be made by the *Governor in consultation with the High Court.

(2) A person not already in the service of the State shall only be eligible to be appointed a district Judge if he has been for not less than seven years an advocate or pleader and is recommended by the High Court for appointment.

1[109 A. Validation of postings and transfers of, and judgements, etc., delivered by, certain district judges — Notwithstanding any judgement, decree or order of any court —

* See foot-note 1 to S.2.
(a) no posting or transfer of a district judge made at any time before the commencement of the Constitution of Jammu and Kashmir (Ninth Amendment) Act, 1967 otherwise than in accordance with the provisions of section 109 or section 111 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such posting or transfer was not made in accordance with the said provisions:

(b) no jurisdiction exercised, no judgement, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution of Jammu and Kashmir (Ninth Amendment) Act, 1967, by, or before, any person posted or transferred as a district judge in the State otherwise that in accordance with the provisions of section 109 or section 111 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such posting or transfer was not made in accordance with the said provisions].

110. Recruitment of persons other than district judges to the judicial service — Appointments of persons other than district judges to the judicial service of the State shall be made by the *Governor in accordance with rules made by him in that behalf after consultation with the Public Service Commission and with the High Court.

111. Control over subordinate courts — The control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of the State and holding any post inferior to the post of district judge shall be vested in the High Court; but nothing in this section shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

* See foot-note 1 to S.2.
112. Interpretation — In this Part —

(a) The expression "district judge" includes additional district judge, assistant district judge, sessions judge, additional sessions judge and assistant sessions judge;

(b) the expression "judicial service" means a service consisting exclusively of persons intended to fill the post of district judge, and other civil judicial posts inferior to the post of district judge.

113. Application of the provisions of this Part to certain class or classes of magistrates — The Governor may be public notification direct that the foregoing provisions of this Part and any rules made thereunder shall with effect such date as may be fixed by him in that behalf apply in relation to any class or classes of magistrates in the State as they apply in relation to persons appointed to the judicial service of the State subject to such exceptions and modifications as may be specified in the notification.

PART VIII

FINANCE, PROPERTY AND CONTRACTS

114. Taxes not to be imposed save by authority of law — No tax shall be levied or collected except by authority of law.

115. Consolidated Fund and public account — (1) Subject to the provisions of section 116, all revenues received by the Government, all loans raised by the Government by the issue of treasury bills, loans or ways and means advances and all moneys received by the Government in repayment of loans shall form one consolidated fund to be entitled "The Consolidated Fund of the State".

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

(3) No moneys out of the Consolidated Fund of the State shall be appropriated except in accordance with law and for the purposes and in the manner provided in the Constitution.

* See foot-note 1 to S.2.
116. **Contingency Fund** — The Legislature may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the *Governor to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Legislature by law under section 82 or 83.

117. **Expenditure deferayable by the State out of its revenues** — The State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which the Legislature may make laws.

118. **Custody etc. of Consolidated Fund, Contingency and moneys credited to the public account** — The custody of the Consolidated Fund of the State and the Contingency Fund of the State, the payment of moneys into such Funds, 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, their payment into the public account of the State and the withdrawal of money from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature and, until provision in that behalf is so made, shall be regulated by rules made by the *Governor.

119. **Custody of suitors' deposits and other moneys received by public servants and courts** — All moneys received by or deposited with —

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

   (b) any court within the State to the credit of any cause, matter, account or persons,

shall be paid into the public account of the State.

* See foot-note 1 to S.2.
120. Property accruing by escheat or lapse or as bona vacantia — Any property within the State which, if this Constitution had not come into operation, would have accrued to the Government or any other authority in the State by escheat or lapse, or as bona vacantia for want of a rightful owner, shall vest in the State.

121. Power to carry on trade etc — (1) The executive power of the State shall extend, subject to any law made by the State Legislature, to the carrying on of any trade or business, and to the grant, sale, disposition or mortgage of any property held for the purposes of the State, and to the purchase or acquisition of property for those purposes and to the making of contracts.

(2) All property acquired for the purpose of the State shall vest in the State.

122. Contracts — (1) All contracts made in the exercise of the executive powers of the State shall be expressed to be made by the *Governor and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the *Governor by such persons and in such manner as he may direct or authorise.

(2) The *Governor shall not be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of the State in force, nor shall any person making or executing any such contract or assurance on his behalf be personally liable in respect thereof.

123. Suits and proceedings — The Government may sue or be sued by the name of the State of Jammu and Kashmir and may, subject to any provisions which may be made by Act of the Legislature enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to its affairs in the like cases as the State might have sued or been sued or been if this Constitution had not been enacted.

* See foot-note 1 to S.2.
124. Recruitment and conditions of service of persons serving the State—
Subject to the provisions of this Constitution, the Legislature may by law regulate
the recruitment, and conditions of service of persons appointed, to public services
and posts in connection with the affairs of the State:

Provided that it shall be competent for the *Governor or such person as he may
direct, to make rules regulating the recruitment, and the conditions of service of
persons appointed, to such services and posts until provision in that behalf is made
by or under an Act of the Legislature under this section and any rules so made
shall have effect subject to the provisions of any such Act.

125. Tenure of office of persons serving the State — (1) Except as expressly
provided by this Constitution, every person who is a member of a civil service of
the State or holds any civil post under the State holds office during the pleasure of
the *Governor.

(2) Notwithstanding that a person holding a civil post under the State holds
office during the pleasure of the *Governor, any contract under which a person, not
being a member of a civil service of the State, is appointed to hold such a post
may, if the *Governor deems it necessary in order to secure the service of a person
having special qualifications, provide for the payment to him of compensation, if
before the expiration of an agreed period that post is abolished or he is, for reasons
not connected with any misconduct on his part, required to vacate that post.

126. Dismissal, reduction or removal of persons employed in civil capaci-
ties under the State — (1) No person who is a member of a civil service of the
State or holds a civil post under the State shall be dismissed or removed by an
authority subordinate to that by which he was appointed.

1[(2) No such person as aforesaid shall be dismissed or removed or reduced in
rank except after an inquiry in which he has been informed of the charges against

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* See foot-note 1 to S.2.
him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this sub-section shall not apply —

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

(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(c) where the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonable to hold such inquiry as is referred to in sub-section (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

127. Transitional provisions — Until other provision is made in this behalf under this Constitution, all the laws in force immediately before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as service or post under the State, shall continue in force so far as consistent with the provisions of this Constitution.

The Public Service Commission

128. Public Service Commission for the State — There shall be a Public Service Commission (hereinafter referred to in this Part as "the Commission") for the State.

* See foot-note 1 to S.2.
129. Appointment and term of office of members — (1) The Chairman and other members of the Commission shall be appointed by the *Governor:

Provided that as nearly as may be one-half of the members of the Commission shall be persons who at the dates of their respective appointments have held office for at least ten years under the Government.

(2) A member of the Commission shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier:

Provided that —

(a) a member of the Commission may, by writing under his hand addressed to the *Governor, resign his office;

(b) a member of the Commission may be removed from his office in the manner hereinafter provided.

(3) A person who holds office as a member of the Commission shall, on the expiration of his term of office, be ineligible for reappointment to that office.

130. Removal and suspension of a member of the Commission — (1) Subject to the provisions of sub-section (3), the Chairman or any other member of the Commission shall only be removed from his office by order of the *Governor on the ground of misbehaviour after the High Court, on reference being made to it by the *Governor, has, on inquiry held in that behalf, reported that the Chairman or such other member, as the case may, ought on any such ground to be removed.

(2) The *Governor may suspend from the office the Chairman or any other member of the Commission in respect of whom a reference has been made to the High Court under sub-section (1) until the *Governor has passed order on receipt of the report of the High Court on such reference.

(3) Notwithstanding anything in sub-section (1), the *Governor may by order remove from office the Chairman or any other member of the Commission if the Chairman or such other member, as the case may be —

* See foot-note 1 to S.2.
(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, in the opinion of the *Governor, unfit to continue in office by reason or infirmity of mind or body.

(4) If the Chairman or any other member of the Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of the State, the Government of India or the Government of any other State in India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

131. Power to make regulations as to conditions of service of members and staff of the Commission — The *Governor may by regulations —

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

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of a member of the commission shall not be varied to his disadvantages after his appointment.

132. Prohibition as to the holding of offices by members of the Commission on ceasing to be such members — On ceasing to hold office the Chairman and the members of the Commission shall be ineligible for further office under the Government of the State, but a member other than the Chairman shall be eligible for appointment as a Chairman of the Commission.

Explanation — For the purposes of this section, the office of Minister or Deputy Minister shall not be deemed to be an office under the Government of the State.

* See foot-note 1 to S.2.
133. Functions of the Commission — (1) It shall be the duty of the Commission to conduct examinations for appointments to the service of the State.

(2) The 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 affecting a person serving under the Government including memorials or petitions relating to such matters,

and it shall be the duty of the Commission to advise on any matter so referred to them or on any other matter which the *Governor may refer to them:

Provided that the *Governor may make regulations specifying the matters in which either generally, or in any particular class of cases or in any particular circumstances, it shall not be necessary for the Commission to be consulted.

(3) Nothing in sub-section (2) shall require the Commission to be consulted as respects the manner in which a provision may be made by the State for the reservation of appointments or posts in favour of any class of permanent residents which in the opinion of the Government is not adequately represented in the services under the State.

(4) All regulations made under the proviso to sub-section (2) by the *Governor shall be laid for not less than fourteen days before each House of the Legislature as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid.

134. Acting appointment of Chairman of the Commission — If the office of Chairman of the Commission becomes vacant or if the Chairman is by reason of

* See foot-note 1 to S.2.
absence or for any other reason unable to perform the duties of his office, those duties shall until some person appointed under sub-section (1) of section 129 to the vacant office has entered on the duties thereof, or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the *Governor may appoint for the purpose.

135. Power to extend functions of the Commission — An Act made by the Legislature may provide for the exercise of additional functions by the Commission as respects the services of the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution.

136. Expenses of the Commission — The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the members or the staff of the Commission, shall be charged on the Consolidated Fund of the State.

137. Reports of the Commission — It shall be the duty of the Commission to present annually to the *Governor a report as to the work done by the Commission and the *Governor on receipt of such report, shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature.

*PART X*

**ELECTIONS**

1[138. Superintendence, direction and control of elections — The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections to either House of the State Legislature held under this Constitution, ]**[***]** shall vest in the Election Commission of India.

139. No person to be ineligible for inclusion in electoral roll on grounds of religion, race castes or sex — There shall be one general electoral roll for every

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* See foot-note 1 to S.2.
territorial constituency for election to either House of the Legislature 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, castes, sex or any them.

140. Elections to the Legislative Assembly to be on the basis of adult suffrage — The elections to the Legislative Assembly shall be on the basis of adult suffrage; that is to say, every person who is a permanent resident of the State and who is not less than twenty-one years of age on such date as may be fixed in that behalf by or under any law made by the Legislature and is not otherwise disqualified under this Constitution or and law made by the 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.

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

142. Bar to interference by courts in electoral matters — Notwithstanding anything in this Constitution —

(a) the validity of any law relating to the delimitation of territorial constituencies for the purpose of electing members of the Legislative Assembly or the allotment of seats to such constituencies, made or purporting to be made under section 141, shall not be called in question in any court;

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

* See foot-note 1 to S.2.
Provided that nothing in this clause shall preclude a person whose nomination paper has been rejected from preferring an appeal against the decision of the Returning Officer to such authority and in such manner as the Legislature may by law provide:

Provided further that the decision of the Appellate Authority on such appeal shall be final subject only to the result of the election petition, if any and shall not be called in question in any Court whatsoever notwithstanding anything contained in this Constitution.

**PART XI**

**MISCELLANEOUS PROVISIONS**

143. Protection of Governor — The *Governor shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that nothing in this sub-section shall be construed as restricting the right of any person to bring appropriate proceedings against the Government.

(2) No criminal proceedings whatsoever shall be instituted or continued against the *Governor in any court during his term of office.

(3) No process for the arrest or imprisonment of the *Governor shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the *Governor shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as *Governor, until the expiration of two months next after notice in writing has been delivered to the *Governor or left at his office stating the nature of the proceedings, the cause of action therefor the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

* See foot-note 1 to S.2.
144. Flag of the State — The Flag of the State shall be rectangular in shape and red in colour with three equidistant white vertical stripes of equal width next to the staff and a white plough in the middle with the handle facing the stripes.

The ratio of the length of the flag to its width shall be 3:2.

145. Official language of the State — The official language of the State shall be Urdu but the English language shall unless the Legislature by law otherwise provides, continue to be used for all the official purposes of the State for which it was being used immediate before the commencement of this Constitution.

146. Academy for development of Art, Culture and Languages — The *Governor shall, as soon as may be, after the commencement of the Constitution, establish an Academy of Arts, Culture and Languages where opportunities will be afforded for the development of Art and Culture of the State and for the development of Hindi, Urdu and other regional languages of the State specified in the Sixth Schedule.

PART XII
AMENDMENT OF THE CONSTITUTION

147. Amendment of the Constitution — An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in the Legislative Assembly, and when the Bill is passed in each House by a majority of not less than two-thirds of the total membership of that House, it shall be presented to the Sadar-i-Riyast for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that a Bill providing for the abolition of the Legislative Council may be introduced in the Legislative Assembly and passed by it by a majority of the total membership of Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting:

Provided further that no bill or amendment seeking to make any change in —

* See foot-note 1 to S.2.
(a) this section; or

(b) the provisions of section 3 and 5; or

(c) the provisions of the Constitution of India as applicable in relation to the State,

shall be introduced or moved in either House of the Legislature.

PART XIII

TRANSITIONAL PROVISIONS

148. Omitted.
149. Omitted.
150. Omitted.
151. Omitted.
152. Omitted.

153. Provisions as to Judges of High Court — Notwithstanding anything in section 96, the Judges of the High Court holding office immediately before the commencement of this Constitution, shall unless they have elected otherwise, become on such commencement the Judges of the High Court under this Constitution and shall thereupon be entitled to such salaries and allowances and to such rights in respect to leave of absence and pension as are provided for under section 98 in respect of the Judges of the High Court.

154. Courts, authorities and officers to continue to function subject to the provisions of the Constitution — All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State, shall exercise their respective functions subject to the provisions of this Constitution.

155. Moneys received or raised or expenditure incurred between the commencement of the Constitution and the 31st day of March, 1957 — The provisions of this Constitution relating to the Consolidated Fund of the State and the

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appropriation of moneys out of same shall not apply in relation to money's received or raised or expenditure incurred by the Government between the commencement of this Constitution and the thirty-first day of March, 1957, both days inclusive, and any expenditure incurred during that period shall be deemed to be duly authorised if the expenditure was specified in the sanctioned estimate for 1956-57 or is authorised by the Sadar-i-Riyasat in accordance with such rules as were applicable to the authorisation of expenditure from the revenues of State immediately before such commencement.

156. Power of Sadar-i-Riyasat to remove difficulties — (1) The Sadar-i-Riyasat may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Jammu and Kashmir Constitution Act, 1996, to the provisions of this Constitution by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:

Provided that no such order shall be made after the first meeting of the two Houses of the Legislature after their due Constitution under the provisions of Part VI.

(2) Every order made under sub-section (1) shall be laid before the Provisional Legislature, or the newly constituted Legislature, as the case may be.


(2) Notwithstanding the repeal of the said Act but subject to the other provisions of this Constitution, all the laws in force in the State immediately before the commencement of this Constitution shall continue in force until altered or repealed or amended by competent authority.

(3) All notifications published, proclamations issued, powers conferred, jurisdiction vested, forms prescribed, local limits defined, and orders, rules and appointments made under any regulation, order, law or rule in force immediately before the coming into operation of this Constitution and which are not inconsistent with
any of the provisions of this Constitution, shall be deemed to have been respec-
tively published, issued conferred, vested, prescribed, defined and made under this

Constitution and shall remain in force until repealed or modified either expressly or

by implication by competent authority.

158. Interpretation — Unless the context otherwise requires the General Clauses

Act, S.1977, shall apply for the interpretation of this Constitution as it applied for

the interpretation of an Act of the State Legislature.

1[First Schedule]

Second Schedule

(See section 30)

EMOLUMENTS, ALLOWANCES AND

PRIVILEGES OF THE *GOVERNOR

1. Emoluments — The emoluments of the *Governor shall be Rs.5,500 per

mensem.

2. Allowances — In order that the *Governor may be enabled to discharge

conveniently and with dignity the duties of his office there shall also be paid in

cash each year for each of the purposes specified below such amount, [as may be

required by the *Governor and so does not, except in cases for in para 3, exceed

the maximum amount provided hereunder]:-

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Maximum amount provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Sumptuary Allowance</td>
<td>2[Rs. 50,000]</td>
</tr>
<tr>
<td>(ii) Staff and Household</td>
<td>Rs. 1,35,000</td>
</tr>
<tr>
<td>(iii) Tour Expenses</td>
<td>Rs. 30,000</td>
</tr>
<tr>
<td>(iv) Allowances for Misc. expenses</td>
<td>Rs. 20,000</td>
</tr>
<tr>
<td>Total</td>
<td>Rs. 2,35,000</td>
</tr>
</tbody>
</table>

Note - The grants specified above shall be operated upon in consultation with
the Government.

3. The *Governor may in case of necessity in consultation with the Government sanction [re-appropriations in respect of or additions to the grants] specified in para 2.

4. (1) The *Governor shall throughout his term of office, be entitled without payment of rent or hire, to the use of his furnished official residence and of motor vehicles specified in the sub-joined table and the maintenance of such residences and motor vehicles shall be at the State expense:

   [Provided that —

   (i) if the *Governor occupies as his official residence at Srinagar or Jammu a suitable building owned by him, he shall be paid such allowance not exceeding Rs.12,000 per annum as may be determined by the Government for the maintenance of such buildings;

   (ii) the provisions of clause (i) shall be deemed to have come into force with effect from the Twenty-sixth day of January, 1957].

(2) The items specified in the sub-joined table may be varied, amended by the *Governor with the concurrence of the Government.

Explanation — For the purpose of this order —

(a) "official residence" means the official residences to be specified by the Government by notifications and includes the staff quarters and other buildings appurtenant thereto and the gardens thereof;

(b) maintenance in respect of motor vehicles specified in the sub-joined table would include pay and allowances of chauffeurs and the provisions of oil and petrol.

5. There shall be paid to the *Governor, in connection with his assumption of office, and allowance equal to his actual expenses in travelling with his family, if

* See foot-note 1 to S.2.
any, and his family effects, to take up his duties, and a similar allowance on his
vacating the office to return to the place where he ordinarily resided at the time of
his appointment.

6. The *Governor shall be entitled to the free supply of water and electricity
for his domestic use.

7. All motor vehicles specified in the table and any private car owned or main­tained by the *Governor shall be exempt from payment of any toll or tax leviable
under any statute or bye-law.

8. The *Governor, any member of his family and the staff accompanying him
shall be entitled to stay free of rent in any Dak-Bungalow or Rest House main­tained by the Government.

Table

<table>
<thead>
<tr>
<th>Motor Cars</th>
<th>Jeep</th>
<th>Station Wagon</th>
<th>Motor Cycle</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Two</td>
<td>One</td>
<td>One</td>
<td>One</td>
</tr>
</tbody>
</table>

* See foot-note 1 to S.2.
Third Schedule

(See section 62)


1. There shall be paid to the Speaker of the Legislative Assembly and the Chairman of the Legislative Council such salaries and allowances as are payable to a Minister of the State Government under the law for the time being in force.

2. (1) There shall be paid to the Deputy Speaker of the Legislative Assembly such salary and allowances as were payable to him immediately before the commencement of this Constitution.

(2) There shall be paid to the Deputy Chairman of the Legislative Council such salary and allowances as the Governor may determine.

* See foot-note 1 to S.2.
(See section 98)

SALARIES, ALLOWANCES AND OTHER CONDITIONS OF
SERVICE OF THE JUDGES OF THE HIGH COURT

1. There shall be paid to the Judges of the High Court in respect of time spent
on actual service, salary at the following rates per mensem, that is to say:

- The Chief Justice ... 4,000 rupees
- Any other Judge ... 3,500 rupees:

Provided that if a Judge of the High Court at the time of his appointment is in
receipt of a pension (other than a disability or wound pension) in respect of any
previous service under the Government of India or any of its predecessor Govern­
ments or under the Government of a State or any of its predecessor Governments,
his salary in respect to service in the High Court shall be reduced —

(a) by the amount of that pension, and

(b) if he has, before such appointment, received in lieu of a portion of the
pension due to him in respect of such previous service the commuted
value thereof, by the amount of that portion of the pension, and

(c) if he has, before such appointment, received a retirement gratuity in re-
spect of such previous service, by the pension equivalent of that gratuity.

2. The rights in respect of leave of absence (including leave allowances) and
pension and other conditions of service of the Judges of the High Court shall be
governed by the provisions of the High Court Judges (Conditions of Service) Act,
1954 (Central Act No.28 of 1954) and the rules made thereunder, for the time be­
ing in force, as if the said Act and the said rules were applicale to the Judges of the
High Court of Jammu and Kashmir; and in their application to the Judges of the
High Court of Jammu and Kashmir —

(a) any reference in those provisions to the State, [***] High Court, Chief Justice, acting Chief Justice, Judge, Additional Judge, acting Judge and General Provident Fund (Central Services) shall be construed, unless the context otherwise requires, as including a reference to the State of Jammu and Kashmir, [***] the High Court of Jammu and Kashmir and the Chief Justice, acting Chief Justice, Judge, additional Judge and acting Judge, of the High Court of Jammu and Kashmir, and State General Provident Fund respectively;

(b) any reference in those provisions to the "commencement of this Act" shall be construed as a reference to the commencement of the Constitution of Jammu and Kashmir (First Amendment) Act, 1959.

3. In this Schedule, unless the context otherwise requires —

(a) the expression "Chief Justice" includes an acting Chief Justice, and a "Judge" includes an additional Judge and in acting Judge;

(b) "actual service" includes —

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another.

2[4.(1) In the calculation of service for pension of a Judge of any other High Court in India transferred to the High Court of Jammu and Kashmir, his actual service as a Judge of any other High Court in India shall also be reckoned as service for pensions as a Judge of the High Court of Jammu and Kashmir.

(2) In the calculation of the amount of leave at the credit of a Judge of any other High Court in India transferred to the High Court of Jammu and Kashmir, the amount of leave due to him as a Judge of any other High Court in India shall be added to the amount of leave at his credit as a Judge of the High Court of Jammu and Kashmir].

Fifth Schedule
(See section 40, 64 and 97)

FORMS OF OATHS OR AFFIRMATIONS OATH FOR A MINISTER

From A

I, A.B., do swear in the name of God
that I will bear true faith and
solemnly affirm
allegiance to the Constitution of the State as by law established, '[that I will uphold the sovereignty and integrity of India], that I will faithfully and conscientiously discharge the duty upon which I am about to enter, and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.

I further do swear in the name of God
that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the State except as may be required for the due discharge of my duties as such Minister".

From B

OATH FOR A DEPUTY MINISTER

I, A.B., do swear in the name of God
that I will bear true faith and
solemnly affirm
allegiance to the Constitution of the State as by law established, '[that I will uphold the sovereignty and integrity of India], and that I will faithfully and conscientiously discharge the duty upon which I am about to enter, and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.

* See foot-note 1 to S.2.
do swear in the name of God
I further solemnly affirm

communicate or reveal to any person or person any matter which shall be brought under my consideration or shall become known to me as a Deputy Minister for the State except as may be required for the due discharge of my duties as such Minister".

[From C

(I)

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

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

(II)

Form of oath or affirmation to be made by a member of the State Legislature

"I.A.B., having been elected (or nominated) a member of the Legislative Assembly (or legislative Council) do swear in the name of god/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter"

From D

Oath or Affirmation to be made by the Judges of the High Court

"I.A.B., having been appointed Chief Justice (or a Judge) of the High Court of Jammu and Kashmir do swear in the name of god/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws".

Sixth Schedule
(See section 146)

REGIONAL LANGUAGES

1. Kashmiri.
2. Dogri.
3. Balti (Pali).
4. Dardi.
5. Punjabi.
6. Pahari.
7. Ladakhi.
APPENDIX XII

Tashkent Declaration, 10 January 1966

Text of the Tashkent Declaration on 10 January 1966 by the Prime Minister of India and the President of Pakistan. The initiative for a meeting of the Prime Minister of India and the President of Pakistan at Tashkent was taken by Kosygin, Chairman of the Council of Ministers of the U.S.S.R. Swaran Singh, Minister of External Affairs, had said that Kosygin 'not only sponsored the idea of the Conference, but also at all stages, and particularly when difficulties arose, acted as a messenger of peace and helped to resolve all obstacles. He did not propose, much less impose, any particular solution. Yet, without his good offices, the Tashkent Declaration could not have taken shape'.

The Prime Minister of India and the President of Pakistan, having met at Tashkent and having discussed the existing relations between India and Pakistan, hereby declare their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples. They consider the attainment of these objectives of vital importance for the welfare of 600 million people of India and Pakistan.

I

The Prime Minister of India and the President of Pakistan agree that both sides will exert all efforts to create good neighbourly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirm their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan sub-continent and, indeed, the interests of the peoples of India and Pakistan were not served by the continuance of tension between the two countries. It was against this background that Jammu and Kashmir was discussed, and each of the sides set forth its respective position.
II

The Prime Minister of India and the President of Pakistan have agreed that all armed personnel of the two countries shall be withdrawn not later than 25 February 1966 to the positions they held prior to 5 August 1965, and both sides shall observe the cease-fire terms on the cease-fire line.

III

The Prime Minister of India and the President of Pakistan have agreed that relations between India and Pakistan shall be based on the principle of non-interference in the internal affairs of each other.

IV

The Prime Minister of India and the President of Pakistan have agreed that both sides will discourage any propagation directed against the other country, and will encourage propaganda which promotes the development of friendly relations between the two countries.

V

The Prime Minister of India and the President of Pakistan have agreed that the High Commissioner of India to Pakistan and the High Commissioner of Pakistan to India will return to their posts and that the normal functioning of diplomatic missions of both countries will be restored. Both Governments shall observe the Vienna Convention of 1961 on Diplomatic Intercourse.

VI

The Prime Minister of India and the President of Pakistan have agreed to consider measures towards the restoration of economic and trade relations, communications, as well as cultural exchange between India and Pakistan, and to take measures to implement the existing agreements between India and Pakistan.

VII

The Prime Minister of India and the President of Pakistan have agreed that they give instructions to their respective authorities to carry out the repatriation of the prisoners of war.
VIII

The Prime Minister of India and the President of Pakistan have agreed that both the sides will continue the discussion of questions relating to the problems of refugees and evictions / illegal immigrations. They also agreed that both sides will create conditions which will prevent the exodus of people. They further agreed to discuss the return of the property and assets taken over by either side in connection with the conflict.

IX

The Prime Minister of India and the President of Pakistan have agreed that the sides will continue meetings both at the highest and at other levels on matters of direct concern to both countries. Both sides have recognised the need to set up joint Indian-Pakistani bodies which will report to their Governments in order to decide what further steps should be taken.

* * * * * * * *

The Prime Minister of India and the President of Pakistan record their feelings of deep appreciation and gratitude to the leaders of the Soviet Union, the Soviet Government and personally to the Chairman of the Council of Ministers of the U.S.S.R. for their constructive, friendly and noble part in bringing about the present meeting which has resulted in mutually satisfactory results. They also express to the Government and friendly people of Uzbekistan their sincere thankfulness for their overwhelming reception and general hospitality.

They invite the Chairman of the Council of Ministers of the U.S.S.R. to witness this Declaration.

10 January, 1966
APPENDIX XIII

After Pakistan was decisively defeated by India in December 1971, a summit meeting between President Bhutto and (Mrs.) Indira Gandhi was arranged at Simla from 28 June 1972; the summit meeting lasted five days and an agreement on bilateral relations was signed at 0.40 a.m. on 3 July 1972. The text of the agreement is given in this document.

The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of friendly and harmonious relationship and the establishment of durable peace in the sub-continent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their people.

In order to achieve this objective, the Government of India and the Government of Pakistan have agreed as follows:

(i) That the principles and purposes of the Charter of the United Nations shall govern the relations between the two countries.

(ii) That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally after the situation and both shall prevent the organisation, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations.

(iii) That the prerequisite for reconciliation, good neighbourliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit.
(iv) That the basic issues and causes of conflict which have bedevilled the relations between the two countries for the last 25 years shall be resolved by peaceful means.

(v) That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality.

(vi) That in accordance with the Charter of the United Nations, they will refrain from the threat or use of force against the territorial integrity or political independence of each other.

Both Governments will take all steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them.

In order progressively to restore and normalise relations between the two countries step by step, it was agreed that:

(i) Steps shall be taken to resume communications, postal, telegraphic, sea, land including border posts, and air links including overflights.

(ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.

(iii) Trade and co-operation in economic and other agreed fields will be resumed as far as possible.

(iv) Exchange in the fields of science and culture will be promoted.

In this connection delegations from the two countries will meet from time to time to work out the necessary details.

In order to initiate the process of the establishment of durable peace, both the Governments agree that:

(i) Indian and Pakistani forces shall be withdrawn to their side of the international border.
(ii) In Jammu and Kashmir, the line of control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognised position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line.

(iii) The withdrawals shall commence upon entry into force of this agreement and shall be complete within a period of 30 days thereof.

This agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures, and will come into force with effect from the date on which the instruments of ratification are exchanged.

Both Governments agree that their respective heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalisation of relations, including the question of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.
APPENDIX XIV

Kashmir Accord of 13 November, 1974

The State of Jammu and Kashmir, which is a constituent unit of the Union of India, shall, in its relations with the Union, continue to be governed by Article 370 of the Constitution of India.

The residuary powers of legislation shall remain with the State, however, Parliament will continue to have power to make laws relating to the prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and the Constitution.

Where any provision of the Constitution of India had been applied to the State of Jammu and Kashmir with adaptations and modifications, such adaptations and modifications can be altered or repealed by an order of the President under Article 370, each individual proposal in this behalf being considered on its merits; but provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable.

With a view to assuring freedom to the State of Jammu and Kashmir to have its own legislation on matters like welfare measures, cultural matters, social security, personal law, and procedural laws, in a manner suited to the special conditions in the State, it is agreed that the State Government can review the laws made by Parliament or extended to the State after 1953 on any matter relatable to the Concurrent List and may decide which of them, in its opinion, needs amendment or repeal. Thereafter, appropriate steps may be taken under Article 254 of the Constitution of India. The grant of President's assent to such legislation would be sympathetically considered. The same approach would be adopted in regard to laws to be made by Parliament in future under the Proviso to clause 2 of that Article. The State Government shall be consulted regarding the application of any such law to the State and the views of the State Government shall receive the fullest consideration.
As an arrangement reciprocal to what has been provided under Article 368, a suitable modification of that Article as applied to the State should be made by Presidential Order to the effect that no law made by the Legislature of the State of Jammu and Kashmir, seeking to make any change in or in the effect of any provision of the Constitution of the State of Jammu and Kashmir relating to any of the undermentioned matters, shall take effect unless the Bill, having been reserved for the consideration of the President, receives his assent; the matters are:

(a) the appointment, powers, functions, duties, privileges, and immunities of the Governor; and

(b) the following matters relating to Election, namely, the superintendence, direction and control of Elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of the State of Jammu and Kashmir.

No agreement was possible on the question of nomenclature of the Governor and the Chief Minister and the matter is therefore remitted to the principals.

Sd/- Mirza Mohammad Afzal Beg Sd/- G. Parthasarthi

After signing the documents, Mirza Mohammad Afzal Beg wrote the acknowledgement letter to Mr. G. Parthasarthi on the same day, 13 November, 1974.
Dear Shri Parthasarthi,

I have today signed the document containing the points on which we have reached agreement.

As you may recall, in the course of discussions we had on the various issues, I made proposals regarding the following matters:

(i) The provisions relating to the fundamental rights to be incorporated in the State constitution.

(ii) The superintendence, direction and control over elections to the State Legislature by the Election Commission should be removed.

(iii) Article 356 should be modified to require the consent of the State before an order is issued thereunder, or some similar safeguard should be provided.

After prolonged discussions you did not agree to these proposals.

Kindly acknowledge receipt.

Yours Sincerely,

(Sd) Mirza Mohammad Afzal Beg

Shri G. Parthasarthi
31, Aurangzeb Road
New Delhi.