APPENDIX — II

PART XIV CONSTITUTION OF INDIA

Article 309.

Subject to the provision of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a state or such person as he may direct in the case of services and posts in connection with the affairs of the state, to make rules regulating the recruitment, and the conditions of services of persons appointed, to such services and posts until provision in that behalf is made by or under an Acts of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.

Article 310.

(1) Except as expressly provided by this Constitution, every person who is a defence service or of a civil service of the Union or of all-India service or holds any post connected with defence or any civil post under the Union holds office during the pleasure of the President, and every person who is a member of a civil post under a state holds office during the pleasure of the Governor of the State.

(2) Notwithstanding that a person holding a civil post under the Union or a State holds office during the pleasure of the President or, as the case may be, of the Governor of the State, any contract under which a person, not being a member of a defence service or of all-India service or a civil service of the Union or a State, is appointed under this Constitution to hold such a post may be, deems it necessary in order to secure the services of a person having special qualifications, if before the expiration of an agreed
period that post is abolished or he is, for reasons not connected with any misconduct on this part, required to vacate that post.

Article 311

(1) No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(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 him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such enquiry, to impose upon him any such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

Provided further that this clause shall not apply--

(a) where a person is dismissed 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 President or the Governor as the case may be, 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 reasonably practical to hold such inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismissed or remove such person or to reduce him in rank shall be final.