

The Constitution of Jammu and Kashmir, 1956

We, the people of the State of Jammu and Kashmir, having solemnly resolved, in pursuance of 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 the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY This seventeenth day of November, 1956 do Hereby Adopt Enact and Give to ourselves this constitution.

PART I

PRELIMINARY

1. (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 et 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. (I) In this Constitution, unless the context otherwise requires.

(a) "Constitution of India" means the Constitu-tion of India as applicable in relation to this State.

(b) "existing law" means any law, ordinance, order bye-law, rule notification; or regulation based, made or issued before the commence-ment of this Constitution by the Legislature or other competent authority or person hav-ing power to pass. make or issue such law, ordinance, order bye-law 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 Ordianance made by the Sadar-i-Riyasat.

PART II

THE STATE

(3) The State of Jammu and Kashmir is and shall be an integral part of the Union of India.

(4) 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) 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.

PART III

PERMANENT RESIDENTS

(6) (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 pro-perty 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 the State Notification No I-L/84 dated the twentieth April. '1927, read with State Notification No 13/L dated the twenty- seventh June, 1932.

7. Unless the context otherwise requires, all referen-ces in any existing law to hereditary State subject or to State subject of class I or of Class II or of class III shall be construed as references to perma-nent residents of the State.

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

9. A Bill marking provision for any of the following matters, namely.

(a) defining or altering the definition of, the classes of persons who are, or shall be, per-manent 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. 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. In this part, unless the context otherwise requires, the State includes the Government and the Legis-lature of the State and all local or other authori-ties within the territory of the State or under the control of the Government of the State.

12. 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. The prime object of the State consistent with the ideals and objectives of the freedom movement envisaged in "New Kashmir" shall be the pro-motion 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 natio-nal life.

14. Consistently with the objectives outlined in the foregoing section, the State shall develop in a planed manner the productive forces of the coun-try with a view to enriching the material and cul-tural life of the people and foster and protect.

(a) the public sector where the means of produc-tion are owned by the State;

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

(c) the private sector where the means of produc-tion are owned by an individual or a corpora-tion 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. 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. The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

17. 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. 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 be 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. 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 or otherwise have reasonable, just and humane conditions of work with full enjoyment of leisure and social and cultural opportunities, and

(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. The State shall endeavour:

(a) to secure to every permanent resident the right to free education upto 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. 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. 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) the 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, educational, political and legal matters; and

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

23. 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. 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. 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 SADAR-I-RIYASAT

26. (1) The Head of the State shall be designated as the Sadar-i-Riyasat.

(2) The executive power of the State shall be vested in the Sadar-i-Riyasat and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(3) Nothing in this Section shall:

(a) be deemed to transfer to the Sadar-i-Riyasat any functions conferred by any existing law on any other authority; or

(b) prevent the State legislature from conferring by law functions on any authority subordinate to the Sadar-i-Riyasat.

27. The Sadar-i-Riyasat shall be the person who for the time being is recognised by the President as such: Provided that no person shall be so recognised unless he:

(a) is a permanent resident of the state;

(b) is not less than twenty-five years of age; and

(c) has been elected as Sadar-i-Riyasat by a majority of the total membership of the Legislative Assembly in the manner set out in the First Schedule.

28. (1) The Sadar-i-Riyasat shall hold office during the pleasure of the President.

(2) The Sadar-i-Riyasat may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provision of this section, the Sadar-i-Riyasat 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.

29. A person who holds or has held office as Sadar-i-Riyasat shall, subject to the other provisions of this Constitution, be eligible for reselection to that office.

30. (1) The Sadar-i-Riyasat shall not be a member of either House of Legislature and if a member of either House be elected and recognised as Sadar-i-Riyasat, he shall be deemed to have vacated his seat in the House on the date on which he enters upon his office as Sadar-i-Riyasat.

(2) The Sadar-i-Riyasat shall not hold any other office of profit.

(3) The Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as are specified in the second schedule.

(4) The emoluments and allowances of the Sadar-i-Riyasat shall not be diminished during his term of office.

31. The Sadar-i-Riyasat and every person acting as Sadar-i-Riyasat 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 senior-

most judge of the High Court available, in an oath or affirmation in the following form that is to say "I, A. B., do swear in the name of God that I will faithfully discharge the functions of the Sadar-i-Riyasat 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 State."

32. The Sadar-i-Riyasat may be removed from his office by the President if an address by the Legislative Assembly supported by a majority of not less than two-thirds of its total membership is presented to the President praying for such removal on the ground of violation of the Constitution.

33. When a vacancy occurs in the office of the Sadar-i-Riyasat by reason of his death, resignation or removal or when the Sadar-i-Riyasat is unable to discharge his functions owing to absence, illness or any other cause, the functions of the office shall, until the assumption of office by a newly elected Sadar-i-Riyasat or the resumption of duties by the Sadar-i-Riyasat, as the case may be, be discharged by such person as the President may on the recommendation of the Council of Ministers of the State, recognise as the acting Sadar-i-Riyasat.

34. The Sadar-i-Riyasat 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 offense against any law relating to a matter to which the executive power of the State extends.

THE COUNCIL OF MINISTERS

35. (1) There shall be a council of Ministers with the Prime Minister at the head to aid and advise the Sadar-i-Riyasat in the exercise of his functions.

All functions of the Sadar-i-Riyasat 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 Sadar-i-Riyasat shall not be inquired into in any court.

36. The Prime Minister shall be appointed by the Sadar-i-Riyasat and the other Ministers shall be appointed by the Sadar-i-Riyasat on the advice of The Prime Minister.

37. (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. The Sadar-i-Riyasat may on the advice of the Prime Minister appoint from amongst the members of either House of Legislature such number of Deputy Ministers as may be necessary.

39. The Ministers and the [Deputy Ministers shall hold office during the pleasure of the Sadar-i-Riyasat.

40. Before a Minister or a Deputy Minister enters upon his office, the Sadar-i-Riyasat 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. 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 Ministers' 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 Ministers Salaries and Allowances Act, 2010 (Act VIII of 2010)

THE ADVOCATE GENERAL

42. (1) The Sadar-i-Riyasat shall appoint a person who is qualified to be appointed 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 Sadar-i-Riyasat and receive such remuneration as the Sadar-i-Riyasat may determine.

CONDUCT OF GOVERNMENT BUSINESS

43. The Sadar-i-Riyasat 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.

44. It shall be the duty of the Prime Minister

(a) to communicate to the Sadar-i-Riyasat 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 Sadar-i-Riyasat may call for; and

(c) if the Sadar-i-Riyasat 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. (1) All executive action of the Government shall be expressed to be taken in the name of the Sadar-i-Riyasat of the Jammu and Kashmir.

(2) Orders and other instruments made and executed in the name of the Sadar-i-Riyasat 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 Sadar-i-Riyasat, 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 Sadar-i-Riyasat or as the case may be, by the Government of Jammu and Kashmir.

PART VI

THE STATE LEGISLATIVE

COMPOSITION OF THE STATE LEGISLATURE

46. There shall be Legislature for the State which shall consist of the Sadar-i-Riyasat and two Houses be known respectively as the Legislative Assembly and the Legislative Council.

47. (1) The Legislative Assembly shall consist of one hundred members chosen by direct election from territorial constituencies in the State; Provided that the Sadar-i-Riyasat 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.

(2) For the purposes of sub-section (1), the State shall be divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State. Explanation: In this sub-section, the expression "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

(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 be law determine:

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

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

(a) twenty-five seats in the Legislative Assembly shall remain vacant and shall not be taken into account for reckoning the total membership of the Assembly; and the said area shall be excluded in delimiting the territorial constituencies under Section 47.

49. (I) 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:

(a) "population" has the same meaning as in sub-section (2) of section 47; and
(b) "Scheduled Castes" means the caste, 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 Casts 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 on the expiration of a period of five years from the commencement of this Constitution:

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

50. (1) The 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.

(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;

(c) permanent residents who have been for at least three years engaged in teaching in educational institutions recognised by the Government in the Province of Kashmir; and

(d) permanent residents who have been for at least three years engaged in teaching in educational institutions recognised by the Government 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 Sadar-i-Riyasat may by order specify; and

(b) the members of the Panchayats and such other local bodies in the Province of Jammu as the Sadar-i-Riyasat may by order specify.

(6) Six members shall be nominated by the Sadar-i-Riyasat, not more than three of whom shall be person 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.

(7) Elections under sub-section (2) and (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote.

GENERAL PROVISIONS

51. A person shall not be qualified to be chosen to fill a seat in the Legislature unless he:

(a) is a permanent resident of the State;

(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. (1) The Legislative Assembly, unless sooner dis-solved, shall continue for five years from the date appointed for its first meeting and not longer, and the expiration of the said period of five 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 expiration of every second year in accordance with the provisions made in that behalf by Legislature by law.

53. (1) The Sadar-i-Riyasat 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 Sadar-i-Riyasat may from time to time...

(a) prorogue the House or either house (b) dissolve the Legislative Assembly.

54. (1) The Sadar-i-Riyasat may address either House of Legislature, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Sadar-i-Riyasat 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 despatch consider any matter required by the message to be taken into consideration.

55. (1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Sadar-i-Riyasat shall address both Houses of Legislature assembled together and inform the Legislature of the cause 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. Every Minister and the Advocate General shall have the right to speak in, and otherwise 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.

OFFICERS OF THE STATE LEGISLATURE

57. 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 office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker, or Deputy Speaker, as the case may be.

58. A member holding office as 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. (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 Sadar-i-Riyasat may appoint for the purpose.

(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. (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. (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 the 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 sections 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. There shall be pay to the speaker and the 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. (1) Each House of the Legislature shall have a separate secretarial 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 Sadar-i-Riyasat 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. Every member of the Legislative Assembly or the Legislative Council shall before taking his seat, make and subscribe before the Sadar-i-Riyasat 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. 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.

66. 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. (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. (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, his seat shall thereupon become vacant.

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

Provided that in computing the said period of sixty days no account shall be taken of:

(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. (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 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 acknowledgement of allegiance to 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. (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 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 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 members' 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 decides that the member is or was so disqualified, his seat shall thereupon become vacant.

71. 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 54 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 to be recovered as a debt due to the State.

POWERS, PRIVILEGES AND IMMUNITIES OF THE STATE LEGISLATURE AND ITS MEMBERS

72. (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 or any committee thereof as they apply in relation to members of that Legislature.

73. 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. (1) Subject to the provisions of sections 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 House 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. (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 palmed 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 shall 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 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. (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 recommenda-tions 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 Legis-lative Assembly with its recommendations, and the Legislative Assemble may there upon either accept or reject all or any of the recom-mendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bil] shall deemed to have been passed by both Houses with the amend-ments recommended by the Legislative Coun-cil 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 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. (1) For the purposes of the 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 under-taken or to be undertaken by the State;

(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of money into or the with-drawal 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 be expenditure charges 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 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 lice-nces 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) 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 an every Money Bill when it is transmitted to the Legislative Council under section 76 and when it is pre-sented to the Sadar-i-Riyasat for assent under section 78, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

78. When a Bill has been passed by both Houses of the Legislature, it shall be presented to the Sadar--i-Riyasat and the Sadar-i-Riyasat shall declare either that he assents to the Bill or that he with-holds assent therefrom.

Provided that the Sadar-i-Riyasat 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 desira-bility 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 Sadar-i-Riyasat for assent, the Sadar-i-Riyasat shall not withhold assent therefrom.

PROCEDURE IN FINANCIAL MATTERS

79. (1) The Sadar-i-Riyasat 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 expendi-ture charged upon the Consolidated Fund of the State; and

(b) the sums required to meet other expendi-ture proposed to be made from the con-solidated 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 Sadar-i-Riyasat 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;

(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 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 judge-ment decree or award of any Court or arbitral tribunal;

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

80. (1.) So much of the estimates as relates to expen-diture changed 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 preven-ting the discussion in the Legislature of any 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 Sadar-i--Riyasat.

(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 Consoli-dated Fund of the State but not exceed-ing in any case the amount shown in the statement previously laid before the Houses.

(23) 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 to 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 the sub-section shall be final.

(3) Subject to the provisions of sections 89 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

12. (1) The Sadar-i-Riyasat shall:

(a) if the amount authorised by any law made in accordance with provisions of section 81 to be expended for a particular service for the current financial year is found to be insufficient for the purposes 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 the 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 grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of the state to meet such expenditure or grant.

83. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power:

(a) to make any grant in 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 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 authorization of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

84. (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 Sadar-i-Riyasat, and a Bill making such provision shall not be introduced in the Legislative Council:

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 Sadar-i-Riyasat has recommended to that House the consideration of the Bill.

PROCEDURE GENERALLY

85. (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 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 or the Chairman of the Legislative Council, as the case may be.

(3) The Sadar-i-Riyasat, 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.

86. 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 House 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 of standing order having effect in relation to either House of the Legislature under sub-section (2) of that section such provisions shall prevail.

87. Business in the Legislature shall be transacted in Urdu or in English.

(1) 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 records 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. 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. (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.

90. No Act of the Legislature and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given by the Sadar-i-Riyasat.

Legislative power of the Sadar-i-Riyasat:

91. (1) If at any time, except when both Houses of the Legislature are in session, the Sadar-i-Riyasat 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 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 Sadar-i-Riyasat, 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 Legislative Council, upon the resolution being agreed to by the Legislative Council, and -

(b) may be withdrawn at any time by the Sadar-i-Riyasat.

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

Breakdown of Constitutional Machinery.

92. (1) If at any time the Sadar-i-Riyasat 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 Sadar-i-Riyasat may by Proclamation:

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

(b) make such incidental and consequential provisions as appear to the Sadar-i-Riyasat 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 any body or authority in the State:

Provided that nothing in this section shall authorise the Sadar-i-Riyasat to assume to 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 carried 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 Sadar-i-Riyasat 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 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. 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. (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. 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. 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 Sadar-i-Riyasat, and in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court and shall hold office until he attains the age of sixty years.

96. 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. Every person appointed to be a Judge of the High Court, shall, before he enters upon his office, make an subscribe before the Sadar-i-Riyasat 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. (1) There shall be paid to the Judges of the High Court such salaries as are specified in the Fourth Schedule.

(a) Every Judge shall be entitled to such allowan-ces and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by the Legislature, and until so determined, to such allowances and rights 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 dis-advantage after his appointment:

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

(2) A Judge of the High Court shall not be removed from his office except by an order of the President passed after an address by each House of the Legislature supported by a majority of the total membership of that House and by a majority of not less than two- thirds of the members of that House present and voting has been presented to the president in the same session for such removal on the ground of proved misbehaviour or incapacity.

(3) The Legislature may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under sub-section (2).

100. (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) 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 the Court until the permanent Judge has resumed his duties.

101. (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 Sadar-i-Riyasat 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 Courts should hold its sitting at a place other than Srinagar and Jummu, one or more Judges of the High Court as determined by him shall, with the previous approval of the Sadar-i-Riyasat, sit at such place.

102. 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 immedia-tely before the commencement of this Constitution.

103. 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, quo warranto and certiorari, or any of them. for any purpose other than those mentioned in clause (2A) of article 32 of the Constitution of India.

104. (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.

(I) 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 practicing 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 Sadar-i-Riyasat.

105. 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. No person who had held office as a Judge of the High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the State.

107. (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. (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 Sadar-i-Riyasat 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.

(I) 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 Sadar-i-Riyasat.

(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. (1) Appointment of persons to be, and the postings: and promotion of district judges in the State shall be made by the Sadar-i-Riyasat 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.

110. Appointment of persons other than district judges to the judicial service of the State shall be made by the Sadar-i-Riyasat in accordance with rules made by him in that behalf after consultation with the Public Service Commission and with the High Court.

111. The control over district courts and courts sub-ordinate 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.

112. 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. The Sadar-i-Riyasat may by public notification direct that the foregoing provisions of this part and any rules made thereunder shall with effect from 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 any 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. No tax shall be levied or collected except by authority of law.

115. (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 Government in repayment of loaned 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 this Constitution.

116. The Legislature may by law establish a Contingency Fund in the nature of an impress 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 Sadar-i-Riyasat 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. 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.

118. The custody of the Consolidated Fund of the State and the Contingency Funds 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 moneys 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 Sadar-i-Riyasat.

119. 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) an, court within the State to the credit of any cause, matter, account or persons, shall be paid into the public account of the State.

120. Any property within the State which, if this Constitution had not come up into operation, would have accrued to the Government or any other authority hi the State by escheat or lapse, or as bona-vacantia for want of a rightful owner, shall vest in the State.

121. (1) The executive power of the State shall extend, subject to any law made by the State Legisla-ture, to the carrying on of any trade or busi-ness, and to the grant, scale, disposition or mortgage of any property held for the purposes of the State, and to the purchase or acquisi-tion of property for those purposes and to the making of contracts.

(2) All property acquired for the purposes of the State shall vest in the State.

122. (1) All contracts made in the exercise of the executive power of the State shall be expressed to be made by the Sadar-i-Riyasat and all such contracts and all assurance of property made in the exercise of that power shall be executed on behalf of the Sadar-i-Riyasat by such persons and in such manner as he may direct or authorise.

(2) The Sadar-i-Riyasat 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 any of enact-ment relating to the Government of the State heretofore in force, nor shall any person making or executing any such contract or assurance on his behalf be personally liable in respect thereof.

123. 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 if this Constitution had not been enacted.

PART IX

THE PUBLIC SERVICE

124. 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 Sadar--i-Riyasat or such person as he may direct, to make rules regulating the recruitment and the conditions of services of persons appointed, to such services and posts until provisions in that behalf is made by or under an Act of the Legislature under this section, and any rules so made shall effect subject to the provisions of any such Act.

125. (1) Except 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 hold office during the pleasure of the Sadar-i-Riyasat.

(2) Notwithstanding that a person holding a civil post under the State holds office during the pleasure of the Sadar-i-Riyasat, any contract under which a person, not being a member of a civil service of the State, is appointed to hold such a post man, if the Sadar-i-Riyasat deems it necessary in order to secure the services of a person having special qualifications, provide for tile 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 miscon-duct on his part required to vacate that post.

126. (1) No person who is a member of a civil service of tile State or holds a civil post under the State shall be distressed 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 until he has been given a reasonable opportunity of show-ing cause against the action proposed to be taken in regard to him:

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;

(b) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause; or

(c) where the Sadar-i-Riyasat is satisfied that in the interests of the security of the State it is not expedient to give to that person such an opportunity.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under sub-section.

(4) The decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

127. Until other Provisional is made in this behalf under the 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. There shall be a Public Service Commission (hereinafter referred to in this Part as "the Commission" for the State.

129. (1) The Chairman and other members of the Commission shall be appointed by the Sadar-i-Riyasat:

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 of a terms 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 Sadar-i-Riyasat, 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 re-appointment to that office.

130. (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 Sadar-i-Riyasat on the ground of misbehaviour after the High Court on reference being made to it by the Sadar-i-Riyasat, has, on inquiry held in that behalf, reported that the Chairman or such other member, as the case may be ought on any such ground to be removed.

The Sadar-i-Riyasat may suspend from 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 Sadar-i-Riyasat has passed orders on receipt of the report of the High Court on such reference.

(3) Notwithstanding anything in sub-section (1) the Sadar-i-Riyasat 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 -

(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 Sadar-i-Riyasat, unfit to continue in office by reason of infirmity of mind or body.

(4) If the Chairman or any other member of the Commission is or becomes in anyway 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 anyway 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 misbehavi-our.

131. The Sadar-i-Riyasat may be regulations:

- (a) determine the number of members of the Commission and their conditions of service; and
- (b) make provision with respect to the num-ber 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 disadvantage after his ap-ointment.

132. 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 sec-tion; the office of Minister or Deputy Minister shall not be deemed to be an office under the Government of the state.

133. (1) It shall be the duty of the Commissions to conduct examinations for appointment to the services 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 candidate 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 Sadar-i--Riyasat may refer to them:

Provided that the Sadar-i-Riyasat 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 appointment or posts in favour of any class of permanent residents which in the opinion of the Govern-ment is not adequately represented in the services under the State.

(4) All regulations made under the proviso to sub-section (2) by the Sadar-i-Riyasat shall be laid for not less than fourteen days before each House of the Legislature as soon as possible after they made, and shall be subject to such modifications, whether by way or repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid.

134. If the office of the Chairman of the Commission becomes vacant or if the Chairman is by reason of 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 Sadar-i-Riyasat may appoint for the purpose.

135. 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. The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the members or the staff of the Com-mission, shall be charged on the Consolidated Fund of the State.

137. It shall be the duty of the Commission to present annually to the Sadar-i-Riyasat a report as to the work done by the Commission and the Sadar-I--Riyasat, on receipt of such report, shall cause a copy thereof together with a memorandum explain-ing, 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

138. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, the elections held under Part VI shall, be vested in an Election Commissio-ner to be appointed by the Sadar-i-Riyasat.

(2) The Sadar-i-Riyasat, may, for such period as he may deem necessary appoint one or more Deputy Election Commissioners to assist the Election Commissioner in the per-formance of the functions conferred by sub-section (1).

(3) subject to the provisions of any law made by the Legislature, the Conditions of service of the Election Commissioner and the Deputy Election Commissioner shall be such as the Sadar-i-Riyasat may by order specify.

(4) The Sadar-i-Riyasat may make acts viable to the Election Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commissioner by sub-section (1).

139. There shall be one general electoral roll for every 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 inclu-ded in any special electoral roll for any such consti-tuency on grounds only of religion, race, caste, sex or any of them.

140. 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 any law made by the Legislature on the ground of non-residence, unsoundness of mind, crime or corruptor illegal practice, shall be registered as a voter at any such election.

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 elec-toral rolls, the delimitation of constituencies, appointment of election tribunals and all other matters necessary for securing the due constitution of the two Houses.

142. Notwithstanding anything in this Constitution:

(a) the validity of any law relating to the delimita-tion of territorial constituencies for the pur-pose 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 ques-tion in any court;

(b) no election to either House of the Legislature shall be called in question except by an elec-tion petition present to such authority and in such manner as may be provided for by or under any law made by the Legislature.

PART XI

MISCELLANEOUS PROVISIONS

143. (1) The Sadar-i-Riyasat shall not be answerable to any court for the exercise of performance of the powers and duties of his office or for any act done or purposing to be done by him in the exercise and performance of those -powers and duties.

Provided that nothing in this subsection shall be construed as restricting the right of any person to bring appropriate proceed-ings against the Government.

(2) No criminal proceedings whatsoever shall be instituted or continued against the Sadar-i-Riyasat in any court during his term of office. No process for the arrest or imprisonment of the Sadar-i-Riyasat shall issue from any court during his term of office.

No civil proceedings in which relief is claimed against the Sadar-i-Riyasat 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 Sadar-i-Riyasat, until the expiration of two months next after notice in writing has been delivered to the Sadar-i-Riyasat 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.

144. 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. 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 immediately before the commencement of this Constitution.

. The Sadar-i-Riyasat shall, as soon as may be, after the commencement of the Constitution establish an Academy of Arts, Culture and Language, 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

AMENDMENTS OF THE CONSTITUTION

147. 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 the House, it shall be presented to the Sadar-i-Riyasat 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 the 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:

(a) this section;

(b) the provisions of the sections 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.