



Government of India Act 1935

1935 CHAPTER 2

PART II

THE FEDERATION OF INDIA.

CHAPTER I

ESTABLISHMENT OF FEDERATION AND ACCESSION OF INDIAN STATES.

5 Proclamation of Federation of India.

(1) It shall be lawful for His Majesty, if an address in that behalf has been presented to him by each House of Parliament and if the condition hereinafter mentioned is satisfied, to declare by Proclamation that as from the day therein appointed there shall be united in a Federation under the Crown, by the name of the Federation of India,—

- (a) the Provinces hereinafter called Governors' Provinces; and
- (b) the Indian States which have acceded or may thereafter accede to the Federation;

and in the Federation so established there shall be included the Provinces hereinafter called Chief Commissioners' Provinces.

(2) The condition referred to is that States—

- (a) the Rulers whereof will, in accordance with the provisions contained in Part II of the First Schedule to this Act, be entitled to choose not less than fifty-two members of the Council of State; and
- (b) the aggregate population whereof, as ascertained in accordance with the said provisions, amounts to at least one-half of the total population of the States as so ascertained,

have acceded to the Federation.

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6 Accession of Indian States.

- (1) A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of an Instrument of Accession executed by the Ruler thereof, whereby the Ruler for himself, his heirs and successors—
- (a) declares that he accedes to the Federation as established under this Act, with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act; and
 - (b) assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his Instrument of Accession :

Provided that an Instrument of Accession maybe executed conditionally on the establishment of the Federation on or before a specified date, and in that case the State shall not be deemed to have acceded to the Federation if the Federation is not established until after that date.

- (2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Federal Legislature may make laws for his State, and the limitations, if any, to which the power of the Federal Legislature to make laws for his State, and the exercise of the executive authority of the Federation in his State, are respectively to be subject.
- (3) A Ruler may, by a supplementary Instrument executed by him and accepted by His Majesty, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by His Majesty or any Federal Authority in relation to his State.
- (4) Nothing in this section shall be construed as requiring His Majesty to accept any Instrument of Accession or supplementary Instrument unless he considers it proper so to do, or as empowering His Majesty to accept any such Instrument if it appears to him that the terms thereof are inconsistent with the scheme of Federation embodied in this Act:

Provided that after the establishment of the Federation, if any Instrument has in fact been accepted by His Majesty, the validity of that Instrument or of any of its provisions shall not be called in question and the provisions of this Act shall, in relation to the State, have effect subject to the provisions of the Instrument.

- (5) It shall be a term of every Instrument of Accession that the provisions of this Act mentioned in the Second Schedule thereto may, without affecting the accession of the State, be amended by or by authority of Parliament, but no such amendment shall, unless it is accepted by the Ruler in a supplementary Instrument, be construed as extending the functions which by virtue of the Instrument are exercisable by His Majesty or any Federal Authority in relation to the State.
- (6) An Instrument of Accession or supplementary Instrument shall not be valid unless it is executed by the Ruler himself, but, subject as aforesaid, references in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

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- (7) After the establishment of the Federation the request of a Ruler that his State may be admitted to the Federation shall be transmitted to His Majesty through the Governor-General, and after the expiration of twenty years from the establishment of the Federation the Governor-General shall not transmit to His Majesty any such request until there has been presented to him by each Chamber of the Federal Legislature, for submission to His Majesty, an address praying that His Majesty may be pleased to admit the State into the Federation.
- (8) In this Act a State which has acceded to the Federation is referred to as a Federated State, and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.
- (9) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by His Majesty under this section, copies of the Instrument and of His Majesty's Acceptance thereof shall be laid before Parliament, and all courts shall take judicial notice of every such Instrument and Acceptance.

CHAPTER II

THE FEDERAL EXECUTIVE.

The Governor-General.

7 Functions of Governor-General.

- (1) Subject to the provisions of this Act, the executive authority of the Federation shall be exercised on behalf of His Majesty by the Governor-General, either directly or through officers subordinate to him, but nothing in this section shall prevent the Federal Legislature from conferring functions upon subordinate authorities, or be deemed to transfer to the Governor-General any functions conferred by any existing Indian law on any court, judge or officer, or on any local or other authority.
- (2) References in this Act to the functions of the Governor-General shall be construed as references to his powers and duties in the exercise of the executive authority of the Federation and to any other powers and duties conferred or imposed on him as Governor-General by or under this Act, other than powers exercisable by him by reason that they have been assigned to him by His Majesty under Part I of this Act.
- (3) The provisions of the Third Schedule to this Act shall have effect with respect to the salary and allowances of the Governor-General and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office.

8 Extent of executive authority of the Federation.

- (1) Subject to the provisions of this Act, the executive authority of the Federation extends—
 - (a) to the matters with respect to which the Federal Legislature has power to make laws;

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- (b) to the raising in British India on behalf of His Majesty of naval, military and air forces and to the governance of His Majesty's forces borne on the Indian establishment;
- (c) to the exercise of such rights, authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance, or otherwise in and in relation to the tribal areas :

Provided that—

- (i) the said authority does not, save as expressly provided in this Act, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws;
 - (ii) the said authority does not, save as expressly provided in this Act, extend in any Federated State save to matters with respect to which the Federal Legislature has power to make laws for that State, and the exercise thereof in each State shall be subject to such limitations, if any, as may be specified in the Instrument of Accession of the State;
 - (iii) the said authority does not extend to the enlistment or enrolment in any forces raised in India of any person unless he is either a subject of His Majesty or a native of India or of territories adjacent to India; and
 - (iv) commissions in any such force shall be granted by His Majesty save in so far as he may be pleased to delegate that power by virtue of the provisions of Part I of this Act or otherwise.
- (2) The executive authority of the Ruler of a Federated State shall, notwithstanding anything in this section, continue to be exercisable in that State with respect to matters with respect to which the Federal Legislature has power to make laws for that State except in so far as the executive authority of the Federation becomes exercisable in the State to the exclusion of the executive authority of the Ruler by virtue of a Federal law.

Administration of Federal Affairs.

9 Council of ministers.

- (1) There shall be a council of ministers, not exceeding ten in number, to aid and advise the Governor-General in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion :

Provided that nothing in this subsection shall be construed as preventing the Governor-General from exercising his individual judgment in any case where by or under this Act he is required so to do.

- (2) The Governor-General in his discretion may preside at meetings of the council of ministers.
- (3) If any question arises whether any matter is or is not a matter as respects which the Governor-General is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor-General in his discretion shall be final, and the validity of anything done by the Governor-General shall not be called in question on the ground that he ought or ought not to have acted in his discretion, or ought or ought not to have exercised his individual judgment.

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10 Other provisions as to ministers.

- (1) The Governor-General's ministers shall be chosen and summoned by him, shall be sworn as members of the council, and shall hold office during his pleasure.
- (2) A minister who for any period of six consecutive months is not a member of either Chamber of the Federal Legislature shall at the expiration of that period cease to be a minister.
- (3) The salaries of ministers shall be such as the Federal Legislature may from time to time by Act determine and, until the Federal Legislature so determine, shall be determined by the Governor-General:

Provided that the salary of a minister shall not be varied during his term of office.
- (4) The question whether any and, if so, what advice was tendered by ministers to the Governor-General shall not be inquired into in any court.
- (5) The functions of the Governor-General with respect to the choosing and summoning and the dismissal of ministers, and with respect to the determination of their salaries, shall be exercised by him in his discretion.

11 Provisions as to defence, ecclesiastical affairs, external affairs, and the tribal areas.

- (1) The functions of the Governor-General with respect to defence and ecclesiastical affairs and with respect to external affairs, except the relations between the Federation and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions hi or in relation to the tribal areas shall be similarly exercised.
- (2) To assist him in the exercise of those functions the Governor-General may appoint counsellors, not exceeding three in number, whose salaries and conditions of service shall be such as may be prescribed by His Majesty in Council.

12 Special responsibilities of Governor-General.

- (1) In the exercise of his functions the Governor-General shall have the following special responsibilities, that is to say,—
 - (a) the prevention of any grave menace to the peace or tranquillity of India or any part thereof;
 - (b) the safeguarding of the financial stability and credit of the Federal Government;
 - (c) the safeguarding of the legitimate interests of minorities;
 - (d) the securing to, and to the dependants of, persons who are or have been members of the public services of any rights provided or preserved for them by or under this Act and the safeguarding of their legitimate interests;
 - (e) the securing in the sphere of executive action of the purposes which the provisions of chapter in of Part V of this Act are designed to secure in relation to legislation;
 - (f) the prevention of action which would subject goods of United Kingdom or Burmese origin imported into India to discriminatory or penal treatment;
 - (g) the protection of the rights of any Indian State and the rights and dignity of the Ruler thereof; and

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- (h) the securing that the due discharge of his functions with respect to matters with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course of action taken with respect to any other matter.
- (2) If and in so far as any special responsibility of the Governor-General is involved, he shall in the exercise of his functions exercise his individual judgment as to the action to be taken.

13 Provisions as to Instrument of Instructions.

- (1) The Secretary of State shall lay before Parliament the draft of any Instrument of Instructions (including any Instrument amending or revoking an Instrument previously issued) which it is proposed to recommend His Majesty to issue to the Governor-General, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Instrument may be issued.
- (2) The validity of anything done by the Governor-General shall not be called in question on the ground that it was done otherwise than in accordance with any Instrument of Instructions issued to him.

14 Superintendence of Secretary of State.

- (1) In so far as the Governor-General is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given to him by, the Secretary of State, but the validity of anything done by the Governor-General shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section.
- (2) Before giving any directions under this section the Secretary of State shall satisfy himself that nothing in the directions requires the Governor-General to act in any manner inconsistent with any Instrument of Instructions issued to him by His Majesty.

15 Financial adviser to Governor-General.

- (1) The Governor-General may appoint a person to be his financial adviser.
- (2) It shall be the duty of the Governor-General's financial adviser to assist by his advice the Governor-General in the discharge of his special responsibility for safeguarding the financial stability and credit of the Federal Government, and also to give advice to the Federal Government upon any matter relating to finance with respect to which he may be consulted.
- (3) The Governor-General's financial adviser shall hold office during the pleasure of the Governor-General, and the salary and allowances of the financial adviser and the numbers of his staff and their conditions of service shall be such as the Governor-General may determine.
- (4) The powers of the Governor-General with respect to the appointment and dismissal of a financial adviser, and with respect to the determination of his salary and allowances and the numbers of his staff and their conditions of service, shall be exercised by him in his discretion :

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Provided that, if the Governor-General has determined to appoint a financial adviser, he shall, before making any appointment other than the first appointment, consult his ministers as to the person to be selected.

16 Advocate-General for Federation.

- (1) The Governor-General shall appoint a person, being a person qualified to be appointed a judge of the Federal Court, to be Advocate-General for the Federation.
- (2) It shall be the duty of the Advocate-General to give advice to the Federal Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Governor-General, and in the performance of his duties he shall have right of audience in all courts in British India and, in a case in which federal interests are concerned, in all courts in any Federated State.
- (3) The Advocate-General shall hold office during the pleasure of the Governor-General, and shall receive such remuneration as the Governor-General may determine.
- (4) In exercising his powers with respect to the appointment and dismissal of the Advocate-General and with respect to the determination of his remuneration, the Governor-General shall exercise his individual judgment.

17 Conduct of business of Federal Government.

- (1) All executive action of the Federal Government shall be expressed to be taken in the name of the Governor-General.
- (2) Orders and other instruments made and executed in the name of the Governor-General shall be authenticated in such manner as may be specified in rules to be made by the Governor-General, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor-General.
- (3) The Governor-General shall make rules for the more convenient transaction of the business of the Federal Government, and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor-General is by or under this Act required to act in his discretion.
- (4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor-General all such information with respect to the business of the Federal Government as may be specified in the rules, or as "the Governor-General may otherwise require to be so transmitted, and in particular requiring a minister to bring to the notice of the Governor-General, and the appropriate secretary to bring to the notice of the minister concerned and of the Governor-General, any matter under consideration by him which involves, or appears to him likely to involve, any special responsibility of the Governor-General.
- (5) In the discharge of his functions under subsections (2), (3) and (4) of this section the Governor-General shall act in his discretion after consultation with his ministers.

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CHAPTER III

THE FEDERAL LEGISLATURE.

General.

18 Constitution of the Federal Legislature.

- (1) There shall be a Federal Legislature which shall consist of His Majesty, represented by the Governor-General, and two Chambers, to be known respectively as the Council of State and the House of Assembly (in this Act referred to as " the Federal Assembly ").
- (2) The Council of State shall consist of one hundred and fifty-six representatives of British India and not more than one hundred and four representatives of the Indian States, and the Federal Assembly shall consist of two hundred and fifty representatives of British India and not more than one hundred and twenty-five representatives of the Indian States.
- (3) The said representatives shall be chosen in accordance with the provisions in that behalf contained in the First Schedule to this Act.
- (4) The Council of State shall be a permanent body not subject to dissolution, but as near as may be one-third of the members thereof shall retire in every third year in accordance with the provisions in that behalf contained in the said First Schedule.
- (5) Every Federal Assembly, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.

19 Sessions of the Legislature, prorogation and dissolution.

- (1) The Chambers of the Federal Legislature shall be summoned to meet once at least in every year, and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.
- (2) Subject to the provisions of this section, the Governor-General may in his discretion from time to time—
 - (a) summon the Chambers or either Chamber to meet at such time and place as he thinks fit;
 - (b) prorogue the Chambers;
 - (c) dissolve the Federal Assembly.
- (3) The Chambers shall be summoned to meet for their first session on a day not later than such day as may be specified in that behalf in His Majesty's Proclamation establishing the Federation.

20 Right of Governor-General to address, and send messages to, Chambers.

- (1) The Governor-General may in his discretion address either Chamber of the Federal Legislature or both Chambers assembled together, and for that purpose require the attendance of members.
- (2) The Governor-General may in his discretion send messages to either Chamber of the Federal Legislature, whether with respect to a Bill then pending in the Legislature or

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otherwise, and a Chamber to whom any message is so sent shall with all convenient dispatch consider any matter which they are required by the message to take into consideration.

21 Rights of ministers, counsellors and Advocate-General as respects Chambers.

Every minister, every counsellor and the Advocate-General shall have the right to speak in, and otherwise to take part in the proceedings of, either Chamber, any joint sitting of the Chambers, and 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.

22 Officers of Chambers.

- (1) The Council of State shall as soon as may be choose two members of the Council to be respectively President and Deputy President thereof and, so often as the office of President or Deputy President becomes vacant, the Council shall choose another member to be President or Deputy President, as the case may be.
- (2) A member holding office as President or Deputy President of the Council of State shall vacate his office if he ceases to be a member of the Council, may at any time resign his office by writing under his hand addressed to the Governor-General, and may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council; but no resolution for the purpose of this subsection shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.
- (3) While the office of President is vacant, the duties of the office shall be performed by the Deputy President, or, if the office of Deputy President is also vacant, by such member of the Council as the Governor-General may in his discretion appoint for the purpose, and during any absence of the President from any sitting of the Council the Deputy President or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as President.
- (4) There shall be paid to the President and the Deputy President of the Council of State such salaries as may be respectively fixed by Act of the Federal Legislature, and, until provision in that behalf is so made, such salaries as the Governor-General may determine.
- (5) The foregoing provisions of this section shall apply in relation to the Federal Assembly as they apply in relation to the Council of State with the substitution of the titles "Speaker" and "Deputy Speaker" for the titles "President" and "Deputy President" respectively, and with the substitution of references to the Assembly for references to the Council:

Provided that, without prejudice to the provisions of subsection (2) of this section as applied by this subsection, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

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23 Voting in Chambers, power of Chambers to act notwithstanding vacancies, and quorum.

- (1) Save as provided in the last preceding section, all questions at any sitting or joint sitting of the Chambers shall be determined by a majority of votes of the members present and voting, other than the President or Speaker or person acting as such.

The President or Speaker 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.

- (2) A Chamber of the Federal 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.
- (3) If at any time during a meeting of a Chamber less than one-sixth of the total number of members of the Chamber are present, it shall be the duty of the President or Speaker or person acting as such either to adjourn the Chamber, or to suspend the meeting until at least one-sixth of the members are present.

Provisions as to Members of Legislature.

24 Oath of members.

Every member of either Chamber shall, before taking his seat, make and subscribe before the Governor-General, or some person appointed by him, an oath according to that one of the forms set out in the Fourth Schedule to this Act which the member accepts as appropriate in his case.

25 Vacation of seats.

- (1) No person shall be a member of both Chambers, and rules made by the Governor-General exercising his individual judgment shall provide for the vacation by a person who is chosen a member of both Chambers of his seat in one Chamber or the other.
- (2) If a member of either Chamber—
- (a) becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section; or
 - (b) by writing under his hand addressed to the Governor-General resigns his seat, his seat shall thereupon become vacant.
- (3) If for sixty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

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

26 Disqualifications for membership.

- (1) A person shall be disqualified for being chosen as, and for being, a member of either Chamber—

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- (a) if he holds any office of profit under the Crown in India, other than an office declared by Act of the Federal Legislature 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, whether before or after the establishment of the Federation, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by Order in Council or by an Act of the Federal Legislature to be an offence or practice entailing disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf by the provisions of that Order or Act;
- (e) if, whether before or after the establishment of the Federation, he has been convicted of any other offence by a court in British India or in a State which is a Federated State and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Governor-General, acting in his discretion, may allow in any particular case, has elapsed since his release;
- (f) if, having been nominated candidate for the Federal or any Provincial Legislature or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by any Order in Council made under this Act or by any Act of the Federal or the Provincial Legislature, unless five years have elapsed from the date by which the return ought to have been lodged or the Governor-General, acting in his discretion, has removed the disqualification :

Provided that a disqualification under paragraph (f) of this subsection shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Governor-General, acting in his discretion, may in any particular case allow.

- (2) A person shall not be capable of being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence.
- (3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (d) or paragraph (e) of subsection (1) of this section is at the date of the disqualification a member of the Legislature, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this subsection he shall not sit or vote.
- (4) For the purposes of this section a person shall not be deemed to hold an office of profit under the Crown in India by reason only that—
 - (a) he is a minister either for the Federation or for a Province; or
 - (b) while serving a State, he remains a member of one of the services of the Crown in India and retains all or any of his rights as such.

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27 Penalty for sitting and voting when not qualified, or when disqualified.

If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of subsection (3) of the last preceding section, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Federation.

28 Privileges, &c. of members.

- (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Federal Legislature, there shall be freedom of speech in the Legislature, and 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 either Chamber of the Legislature of any report, paper, votes or proceedings.
- (2) In other respects, the privileges of members of the Chambers shall be such as may from time to time be defined by Act of the Federal Legislature and, until so defined, shall be such as were immediately before the establishment of the Federation enjoyed by members of the Indian Legislature.
- (3) Nothing in any existing Indian Act, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering the Federal Legislature to confer, on either Chamber or on both Chambers sitting together, or on any committee or officer of the Legislature, the status of a court, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner.
- (4) Provision may be made by an Act of the Federal Legislature for the punishment, on conviction before a court, of persons who refuse to give evidence or produce documents before a committee of a Chamber when duly required by the chairman of the committee so to do :

Provided that any such Act shall have effect subject to such rules for regulating the attendance before such committees of persons who are, or have been, in the service of the Crown in India, and safeguarding confidential matter from disclosure, as may be made by the Governor-General exercising his individual judgment.

- (5) The provisions of subsections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise take part in the proceedings of, a Chamber as they apply in relation to members of the Legislature.

29 Salaries and allowances of members.

Members of either Chamber shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Federal Legislature and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of the establishment of the Federation applicable in the case of members of the Legislative Assembly of the Indian Legislature.

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Legislative Procedure.

30 Provisions as to introduction and passing of Bills.

- (1) Subject to the special provisions of this Part of this Act with respect to financial Bills, a Bill may originate in either Chamber.
- (2) Subject to the provisions of the next succeeding section, a Bill shall not be deemed to have been passed by the Chambers of the Legislature unless it has been agreed to by both Chambers, either without amendment or with such amendments only as are agreed to by both Chambers.
- (3) A Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chambers.
- (4) A Bill pending in the Council of State which has not been passed by the Federal Assembly shall not lapse on a dissolution of the Assembly.
- (5) A Bill which is pending in the Federal Assembly or which having been passed by the Federal Assembly is pending in the Council of State shall, subject to the provisions of the next succeeding section, lapse on a dissolution of the Assembly.

31 Joint sittings of both Chambers in certain cases.

- (1) If after a Bill has been passed by one Chamber and transmitted to the other Chamber—
 - (a) the Bill is rejected by the other Chamber; or
 - (b) the Chambers have finally disagreed as to the amendments to be made in the Bill; or
 - (c) more than six months elapse from the date of the reception of the Bill by the other Chamber without the Bill being presented to the Governor-General for his assent,

the Governor-General may, unless the Bill has lapsed by reason of a dissolution of the Assembly, notify to the Chambers, by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that, if it appears to the Governor-General that the Bill relates to finance or to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment, he may so notify the Chambers notwithstanding that there has been no rejection of or final disagreement as to the Bill and notwithstanding that the said period of six months has not elapsed, if he is satisfied that there is no reasonable prospect of the Bill being presented to him for his assent without undue delay.

In reckoning any such period of six months as is referred to in this subsection, no account shall be taken of any time during which the Legislature is prorogued or during which both Chambers are adjourned for more than four days.

- (2) Where the Governor-General has notified his intention of summoning the Chambers to meet in a joint sitting, neither Chamber shall proceed further with the Bill, but the Governor-General may at any time in the next session after the expiration of six months from the date of his notification summon the Chambers to meet in a joint sitting for the purpose specified in his notification and, if he does so, the Chambers shall meet accordingly :

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Provided that, if it appears to the Governor-General that the Bill is such a Bill as is mentioned in the proviso to subsection (1) of this section, he may summon the Chambers to meet in a joint sitting for the purpose aforesaid at any date, whether in the same session or in the next session.

- (3) The functions of the Governor-General under the provisos to the two last preceding subsections shall be exercised by him in his discretion.
- (4) If at the joint sitting of the two Chambers the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to have been passed by both Chambers :

Provided that at a joint sitting—

- (a) if the Bill, having been passed by one Chamber, has not been passed by the other Chamber with amendments and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;
- (b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,

and the decision of the person presiding as to the amendments which are admissible under this subsection shall be final.

- (5) A joint sitting may be held under this section and a Bill passed thereat notwithstanding that a dissolution of the Assembly has intervened since the Governor-General notified his intention to summon the Chambers to meet therein.

32 Assent to Bills and power of Crown to disallow Acts.

- (1) When a Bill has been passed by the Chambers, it shall be presented to the Governor-General, and the Governor - General shall in his discretion declare either that he assents in His Majesty's name to the Bill, or that he withholds assent therefrom, or that he reserves the Bill for the signification of His Majesty's pleasure :

Provided that the Governor - General may in his discretion return the Bill to the Chambers with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Chambers shall reconsider the Bill accordingly.

- (2) A Bill reserved for the signification of His Majesty's pleasure shall not become an Act of the Federal Legislature unless and until, within twelve months from the day on which it was presented to the Governor-General, the Governor-General makes known by public notification that His Majesty has assented thereto.
- (3) Any Act assented to by the Governor-General may be disallowed by His Majesty within twelve months from the day of the Governor-General's assent, and where any Act is so disallowed the Governor-General shall forthwith make the disallowance known by public notification, and as from the date of the notification the Act shall become void.

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Procedure in Financial matters.

33 Annual financial statement.

- (1) The Governor-General shall in respect of every financial year cause to be laid before both Chambers of the Federal Legislature a statement of the estimated receipts and expenditure of the Federation for that year, in this Part of this Act 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 Act as expenditure charged upon the revenues of the Federation; and
 - (b) the sums required to meet other expenditure proposed to be made from the revenues of the Federation,and shall distinguish expenditure on revenue account from other expenditure, and indicate the sums, if any, which are included solely because the Governor-General has directed their inclusion as being necessary for the due discharge of any of his special responsibilities.
- (3) The following expenditure shall be expenditure charged on the revenues of the Federation :—
 - (a) the salary and allowances of the Governor-General and other expenditure relating to his office for which provision is required to be made by Order in Council;
 - (b) debt charges for which the Federation 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;
 - (c) the salaries and allowances of ministers, of counsellors, of the financial adviser, of the advocate-general, of chief commissioners, and of the staff of the financial adviser;
 - (d) the salaries, allowances, and pensions payable to or in respect of judges of the Federal Court, and the pensions payable to or in respect of judges of any High Court;
 - (e) expenditure for the purpose of the discharge by the Governor-General of his functions with respect to defence and ecclesiastical affairs, his functions with respect to external affairs in so far as he is by or under this Act required in the exercise thereof to act in his discretion, his functions in or in relation to tribal areas, and his functions in relation to the administration of any territory in the direction and control of which he is under this Act required to act in his discretion : provided that the sum so charged in any year in respect of expenditure on ecclesiastical affairs shall not exceed forty-two lakhs of rupees, exclusive of pension charges ;
 - (f) the sums payable to His Majesty under this Act out of the revenues of the Federation in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States;
 - (g) any grants for purposes connected with the administration of any areas in a Province which are for the time being excluded areas;
 - (h) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

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- (i) any other expenditure declared by this Act or any Act of the Federal Legislature to be so charged.
- (4) Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the Federation shall be decided by the Governor-General in his discretion.

34 Procedure in Legislature with respect to estimates.

- (1) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of the Federation shall not be submitted to the vote of the Legislature, but nothing in this subsection shall be construed as preventing the discussion in either Chamber of the Legislature of any of those estimates other than estimates relating to expenditure referred to in paragraph (a) or paragraph (f) of subsection (3) of the last preceding section.
- (2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Federal Assembly and thereafter to the Council of State, and either Chamber 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:

Provided that, where the Assembly have refused to assent to any demand, that demand shall not be submitted to the Council of State, unless the Governor-General so directs and, where the Assembly have assented to a demand subject to a reduction of the amount specified therein, a demand for the reduced amount only shall be submitted to the Council of State, unless the Governor-General otherwise directs; and where, in either of the said cases, such a direction is given, the demand submitted to the Council of State shall be for such amount, not being a greater amount than that originally demanded, as may be specified in the direction.
- (3) If the Chambers differ with respect to any demand the Governor-General shall summon the two Chambers to meet in a joint sitting for the purpose of deliberating and voting on the demand as to which they disagree, and the decision of the majority of the members of both Chambers present and voting shall be deemed to be the decision of the two Chambers.
- (4) No demand for a grant shall be made except on the recommendation of the Governor-General.

35 Authentication of schedule of authorised expenditure.

- (1) The Governor-General shall authenticate by his signature a schedule specifying—
 - (a) the grants made by the Chambers under the last preceding section;
 - (b) the several sums required to meet the expenditure charged on the revenues of the Federation but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Legislature :

Provided that, if the Chambers have not assented to any demand for a grant or have assented subject to a reduction of the amount specified therein, the Governor-General may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility.

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- (2) The schedule so authenticated shall be laid before both Chambers but shall not be open to discussion or vote therein.
- (3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the Federation shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

36 Supplementary statements of expenditure.

If in respect of any financial year further expenditure from the revenues of the Federation becomes necessary over and above the expenditure theretofore authorised for that year, the Governor-General shall cause to be laid before both Chambers of the Federal Legislature a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein.

37 Special provisions as to financial Bills.

- (1) A Bill or amendment making provision—
 - (a) for imposing or increasing any tax; or
 - (b) for regulating the borrowing of money or the giving of any guarantee by the Federal Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Federal Government; or
 - (c) for declaring any expenditure to be expenditure charged on the revenues of the Federation, or for increasing the amount of any such expenditure,shall not be introduced or moved except on the recommendation of the Governor-General, and a Bill making such provision shall not be introduced in the Council of State.
- (2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered.
- (3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of the Federation shall not be passed by either Chamber unless the Governor-General has recommended to that Chamber the consideration of the Bill.

Procedure generally.

38 Rules of procedure.

- (1) Each Chamber of the Federal Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business :

Provided that as regards each Chamber the Governor-General shall in his discretion, after consultation with the President or the Speaker, as the case may be, make rules—

- (a) for regulating the procedure of, and the conduct of business in, the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment;

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- (b) for securing the timely completion of financial business;
- (c) for prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State, other than a matter with respect to which the Federal Legislature has power to make laws for that State, unless the Governor-General in his discretion is satisfied that the matter affects Federal interests or affects a British subject, and has given his consent to the matter being discussed or the question being asked;
- (d) for prohibiting, save with the consent of the Governor-General in his discretion,—
 - (i) the discussion of, or the asking of questions on, any matter connected with relations between His Majesty or the Governor-General and any foreign State or Prince; or
 - (ii) the discussion, except in relation to estimates of expenditure, of, or the asking of questions on, any matter connected with the tribal areas or the administration of any excluded area; or
 - (iii) the discussion of, or the asking of questions on, any action taken in his discretion by the Governor-General in relation to the affairs of a Province; or
 - (iv) the discussion of, or the asking of questions on, the personal conduct of the Ruler of any Indian State, or of a member of the ruling family thereof;

and, if and in so far as any rule so made by the Governor-General is inconsistent with any rule made by a Chamber, the rule made by the Governor-General shall prevail.

- (2) The Governor-General, after consultation with the President of the Council of State and the Speaker of the Legislative Assembly, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

The said rules shall make such provision for the purposes specified in the proviso to the preceding subsection as the Governor-General in his discretion may think fit.

- (3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the establishment of the Federation with respect to the Indian Legislature shall have effect in relation to the Federal Legislature subject to such modifications and adaptations as may be made therein by the Governor-General in his discretion.
- (4) At a joint sitting of the two Chambers the President of the Council of State, or in his absence such person as may be determined by rules of procedure made under this section, shall preside.

39 English to be used in the Federal Legislature.

All proceedings in the Federal Legislature shall be conducted in the English language :

Provided that the rules of procedure of each Chamber and the rules with respect to joint sittings shall provide for enabling persons unacquainted, or not sufficiently acquainted, with the English language to use another language.

40 Restrictions on discussion in the Legislature.

- (1) No discussion shall take place in the Federal Legislature with respect to the conduct of any judge of the Federal Court or a High Court in the discharge of his duties.

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In this subsection the reference to a High Court shall be construed as including a reference to any court in a Federated State which is a High Court for any of the purposes of Part IX of this Act.

- (2) If the Governor-General in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Federal Legislature, or of any specified clause of a Bill, or of any amendment moved or proposed to be moved to a Bill, would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, he may in his discretion direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, and effect shall be given to the direction.

41 Courts not to inquire into proceedings of the Legislature.

- (1) The validity of any proceedings in the Federal Legislature shall not be called in question on the ground of any alleged irregularity of procedure.
- (2) No officer or other member of the Legislature in whom powers are vested by or under this Act 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.

CHAPTER IV

LEGISLATIVE POWERS OF GOVERNOR-GENERAL.

42 Power of Governor-General to promulgate ordinances during recess of Legislature.

- (1) If at any time when the Federal Legislature is not in session the Governor-General 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 Governor-General—

- (a) shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his previous sanction to the introduction thereof into the Legislature; and
 - (b) shall not, without instructions from His Majesty, promulgate any such ordinance if he would have deemed it necessary to reserve a Bill containing the same provisions for the signification of His Majesty's pleasure thereon.
- (2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor-General, but every such ordinance—
 - (a) shall be laid before the Federal Legislature and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or, if before the expiration of that period resolutions disapproving it are passed by both Chambers, upon the passing of the second of those resolutions;

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- (b) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor-General; and
 - (c) may be withdrawn at any time by the Governor-General.
- (3) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.

43 Power of Governor-General to promulgate ordinances at any time with respect to certain subjects.

- (1) If at any time the Governor-General is satisfied that circumstances exist which render it necessary for him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, he may promulgate such ordinances as in his opinion the circumstances of the case require.
- (2) An ordinance promulgated under this section shall continue in operation for such period not exceeding six months as may be specified therein, but may by a subsequent ordinance be extended for a further period not exceeding six months.
- (3) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor-General, but every such ordinance—
- (a) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor-General;
 - (b) may be withdrawn at any time by the Governor-General; and
 - (c) if it is an ordinance extending a previous ordinance for a further period, shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament.
- (4) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.
- (5) The functions of the Governor-General under this section shall be exercised by him in his discretion.

44 Power of Governor-General in certain circumstances to enact Acts.

- (1) If at any time it appears to the Governor-General that, for the purpose of enabling him satisfactorily to discharge his functions hi so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, it is essential that provision should be made by legislation, he may by message to both Chambers of the Legislature explain the circumstances which in his opinion render legislation essential, and either—
- (a) enact forthwith, as a Governor-General's Act, a Bill containing such provisions as he considers necessary; or
 - (b) attach to his message a draft of the Bill which he considers necessary.
- (2) Where the Governor-General takes such action as is mentioned in paragraph (b) of the preceding subsection, he may at any time after the expiration of one month enact,

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as a Governor-General's Act, the Bill proposed by him to the Chambers either in the form of the draft communicated to them or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by either Chamber with reference to the Bill or to amendments suggested to be made therein.

- (3) A Governor-General's Act shall have the same force and effect, and shall be subject to disallowance in the same manner, as an Act of the Federal Legislature assented to by the Governor-General and, if and in so far as a Governor-General's Act makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.
- (4) Every Governor-General's Act shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament.
- (5) The functions of the Governor-General under this section shall be exercised by him in his discretion.

CHAPTER V

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY.

45 Power of Governor-General to issue Proclamations.

- (1) If at any time the Governor-General is satisfied that a situation has arisen in which the government of the Federation cannot be carried on in accordance with the provisions of this Act, he may by Proclamation—
 - (a) declare that his functions shall to such extent as may be specified in the Proclamation be exercised by him in his discretion;
 - (b) assume to himself all or any of the powers vested in or exercisable by any Federal body or authority,and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any Federal body or authority :

Provided that nothing in this subsection shall authorise the Governor-General to assume to himself any of the powers vested in or exercisable by the Federal Court or to suspend, either in whole or in part, the operation of any provision of this Act relating to the Federal Court.

- (2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.
- (3) A Proclamation issued under this section—
 - (a) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament;
 - (b) unless it is a Proclamation revoking a previous Proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this subsection it would otherwise have ceased to operate.

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- (4) If at any time the government of the Federation has for a continuous period of three years been carried on under and by virtue of a Proclamation issued under this section, then, at the expiration of that period, the Proclamation shall cease to have effect and the government of the Federation shall be carried on in accordance with the other provisions of this Act, subject to any amendment thereof which Parliament may deem it necessary to make, but nothing in this subsection shall be construed as extending the power of Parliament to make amendments in this Act without affecting the accession of a State.
- (5) If the Governor-General, by a Proclamation under this section, assumes to himself any power of the Federal 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 Act of the appropriate Legislature, and any reference in this Act to Federal Acts, Federal laws, or Acts or laws of the Federal Legislature shall be construed as including a reference to such a law.
- (6) The functions of the Governor-General under this section shall be exercised by him in his discretion.