

from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

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

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

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(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of thirty 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 House of the People.

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Definition of
"Money Bills"

90. (1) For the purposes of this Chapter, 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:—

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

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(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

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(c) supply;

(d) the appropriation of the revenues of India;

(e) the declaring of any expenditure to be expenditure charged on the revenues of India or the increasing of the amount of any such expenditure;

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(f) the receipt of money on account of the revenues of India or the custody or issue of such money or the audit of the accounts of the Government of India; or

(g) any matter incidental to any of the matters specified in items (a) to (f) of this clause. 5

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes. 10

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final. 15

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under the last preceding article, and when it is presented to the President for assent under the next succeeding article, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill. 20

Assent to
Bills.

91. When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom: 25

Provided that the President may, not later than six weeks after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly. 30 35

Procedure in Financial Matters

Annual financial statement

92. (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts 40

and expenditure of the Government of India for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately— 5

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of India; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of India, 10

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of India— 15

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

(b) the emoluments and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People; 20

(c) debt charges for which the Government of India 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; 25 30

(d) (i) the salaries, allowances and pensions payable to or in respect of judges of the Supreme Court;

(ii) the pensions payable to or in respect of judges of the Federal Court; 35

(iii) the pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution exercised jurisdiction within any area included in the States for the time being specified in Parts I and II of the First Schedule; 40

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- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and
- (f) any other expenditure declared by this Constitution or by Parliament by law to be so charged. 5
- Procedure in Parliament with respect to estimates. 93. (1) So much of the estimates as relates to expenditure charged upon the revenues of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of these estimates. 10
- (2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People and the House of the People 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. 15
- (3) No demand for a grant shall be made except on the recommendation of the President. 20
- Authenticata-
tion of
schedule of
authorised
expenditure. 94. (1) The President shall authenticate by his signature a schedule specifying—
- (a) the grants made by the House, of the People under the last preceding article; 25
- (b) the several sums required to meet the expenditure charged on the revenues of India, but not exceeding in any case, the sum shown in the statement previously laid before Parliament. 30
- (2) The schedule so authenticated shall be laid before the House of the People, but shall not be open to discussion or vote in Parliament.
- (3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of India shall be deemed to be duly authorised unless it is specified in the schedule so authenticated. 35
- Supplemen-
tary state-
ments of
expenditure. 95. If in respect of any financial year further expenditure from the revenues of India becomes necessary over and above the expenditure theretofore authorised for that year, the President shall cause to be laid before both the Houses of Parliament a 40

supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles 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. 5

Excess grants. *96. If in any financial year expenditure from the revenues of India has been incurred on any service for which the vote of the House of the People is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the House of the People and the provisions of articles 93 and 94 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant. 10 15

Special provisions as to financial Bills. 97. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States: 20

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax. 25

(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 Tendered 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. 30

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill. 35

*This article follows the recommendations of the Expert Committee on the Financial provisions of the Constitution.

Procedure Generally

Rules of procedure.

98. (1) Each House of Parliament may make rules for regulating', subject to the provisions of this Constitution, its procedure and the conduct of its business.

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(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

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(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

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(4) At a joint sitting of the two Houses the Speaker of the House of the People,* or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

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Language to be used in Parliament.

99. (1) In Parliament business shall be transacted in Hindi or English:

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Provided that the Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may permit any member who cannot adequately express himself in either language to address the House in his mother tongue.

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(2) The Chairman of the Council of States or the Speaker of the House of the People may, whenever he thinks fit, make arrangements for making available in the Council of States or the House of the People, as the case may be, a summary in Hindi or English of the speech delivered by a member in any other language and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

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*The Committee is of opinion that the Speaker of the House of the People should preside at a joint sitting of the two Houses of Parliament as the House of the People is the more numerous body.

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Restrictions on discussion in Parliament.	100. (1) No discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the judge as hereinafter provided.	5
	(2) In this article the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of this Part.	10
Courts not to inquire into proceedings of Parliament.	101. (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.	
	(2) No officer or other member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.	15 20

CHAPTER III—Legislative Powers of the President

Power of President to promulgate Ordinances during recess of Parliament.	102. (1) If at any time, except when both Houses of Parliament are in session, the President 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.	25
	(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament assented to by the President, but every such Ordinance—	30
	(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and	35 40
	(b) may be withdrawn at any time by the President.	

Explanation:—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void. 5

CHAPTER IV—The Federal Judicature

Establishment and constitution of Supreme Court. 103. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and such number of other judges not being less than *seven as Parliament may by law prescribe. 10

(2) Every judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the States as may be necessary for the purpose and shall hold office until he attains the age of sixty-five years: 15 20

Provided that in the case of appointment of a judge, other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

- (a) a judge may, by writing under his hand addressed to the President, resign his office; 25
- (b) a judge may be removed from his office in the manner provided in clause (4).
- (3) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and— 30
 - (a) has been for at least five years a judge of a High Court or of two or more such courts in succession; or 35

* The Committee considers that seven judges would in the beginning be sufficient and Parliament might, by law, afterwards increase the number.

- (b) has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I:—In this clause ‘High Court’ means a High Court which exercises, or which before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India. 5

Explanation II:—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person held judicial office, after he became an advocate, shall be included. 10

(4) A judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address supported by not less than two-thirds of the members present and voting has been presented to the President by both Houses of Parliament in the same session for such removal on the ground of proved misbehaviour or incapacity. 15 20

(5) Parliament 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 the last preceding clause. 25

(6) Every person appointed to be a judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule. 30

(7) No person who has held office as a judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Salaries etc.
of judges.

104. The judges of the Supreme Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by Parliament, and until they are so fixed shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule: 35 40

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

Appointment of acting Chief Justice. 105. When the office of Chief Justice of India 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. 5 10

Appointment of ad hoc judges. 106. (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the court, the Chief Justice may, after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the court, as an ad hoc judge, for such period as may be necessary, of a judge of a High Court to be nominated by the Chief Justice of India. 15

(2) It shall be the duty of the judge, who has been so nominated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a judge of the Supreme Court. 20 25

Attendance of retired Judges at settings of the Supreme court. *107. Notwithstanding anything contained in this Chapter, the Chief Justice of India may at any time, subject to the provisions of this article, request any person who has held the of a of a judge of the Supreme Court or of the Federal Court to sit and act as a judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court: 30 35

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do. 40

*The employment of retired judges follows the practice in the United Kingdom and in the United States of America.

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Seat of Supreme Court.	108. The Supreme Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice may, with the approval of the President, from time to time, appoint.	5
Original jurisdiction of the Supreme Court.	109. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute—	
	(a) between the Government of India and one or more States, or	10
	(b) between the Government of India and any State or States on one side and one or more other States on the other; or	
	(c) between two or more States,	15
	if in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:	
	Provided that the said jurisdiction shall not extend to—	20
	(i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date;	25
	(ii) a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute.	30
		35
Appellate jurisdiction of Supreme Court in appeals from High Courts in States in certain cases.	110. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in a State, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.	40

(2) "Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order. 5

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court not only on the ground that any such question as aforesaid has been wrongly decided, but also on any other ground. 10

Explanation.—For the purposes of this article, the expression "final order" includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case. 15

Appellate jurisdiction of Supreme Court in appeals from High Courts in the territory of India except the States for the time being specified in Part III of the First Schedule in other cases.

111. (1) An appeal shall lie to the Supreme Court from a judgment, decree or final order in a civil proceeding of a High Court in the territory of India except the States for the time being specified in Part III of the First Schedule, if the High Court certifies— 20

(a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees; or 25

(b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or 30

(c) that the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below, in any case other than one referred to in clause (c), if the High Court further certifies that the appeal involves some substantial question of law. 35

(2) Notwithstanding anything contained in article 110 of this Constitution, any party appealing to the Supreme Court under clause (1) of this article may 40

urge as one of the grounds in such appeal that the case involves a substantial question of law as to the interpretation of this Constitution which has been wrongly decided.

Special leave to appeal by the Supreme Court in certain other cases.

112. The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India except the States for the time being specified in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply.

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Reference to the Supreme Court by High Courts in States for the time being specified in Part III of the First Schedule in certain cases.

113. (1) If in the course of any civil, criminal or other proceeding in a High Court in any State for the time being specified in Part III of the First Schedule, any question as to the applicability or interpretation of any law of Parliament or of the Legislature of any State other than such State, which is material for the determination of any issue in such proceeding, arises, the High Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case with particular reference to such question with its own opinion thereon and refer such question to the Supreme Court for opinion.

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(2) The Supreme Court may, where any such High Court refuses to state a case under clause (1) of this article, require a case to be so stated.

(3) When a case is so stated either under clause (1) or under clause (2) of this article, the High Court shall stay all proceedings until the opinion of the Supreme Court is received.

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(4) The Supreme Court shall, after giving the parties an opportunity of being heard, decide the question so referred, and shall cause a copy of its opinion to be transmitted to the High Court and such High Court shall on receipt thereof proceed to dispose of the case in conformity with the opinion of the Supreme Court.

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(5) The Supreme Court may at any stage return any case stated under this article in order that further facts may be stated therein.

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Enlargement of the jurisdiction of the Supreme Court.	114. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.	
	(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.	5 10
Conferment on the Supreme Court of powers to issue certain writs.	115. Parliament may, by law, confer on the Supreme Court power to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 25 (which relates to the enforcement of fundamental rights) of this Constitution.	15
Ancillary powers of Supreme Court	116. Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.	20
Law declared by Supreme Court to be binding on all courts.	117. The law declared by the Supreme Court shall be binding on all courts within the territory of India.	25
Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.	118. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament.	30
	(2) Subject to the provisions of any law made in this behalf by Parliament the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the	35

	discovery or production of any documents, or the investigation or punishment of any contempt of itself.	
Power of President to consult Supreme Court.	119. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.	5 10
	(2) The President may, notwithstanding anything contained in clause (i) of the proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for decision, and the Supreme Court shall thereupon, after giving the parties an opportunity of being heard, decide the same and report the fact to the President.	15
Civil and judicial authorities to act in aid of the Supreme Court.	120. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.	20
Rules of Court, etc.	*121. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President,	25

*In the Supreme Court of the United States of America all the judges of the Court are entitled to participate in the hearing of every matter, and the Court never sits in divisions. The judges of that Court attach the greatest importance to this practice. The Committee is of opinion that this practice should be followed in India at least in two classes of cases, namely, those which involve questions of interpretation of the Constitution and those which are referred to the Supreme Court for opinion by the President. Whether the same practice should not be extended to other classes of cases is a matter which Parliament may regulate by law.

Item (b) giving the Court power to make rules for regulating the time to be allowed to advocates to make their submissions to the Court has also been inserted in the article. This follows the practice prevalent in the Supreme Court of the United States, where the advocates are normally allowed only one hour to argue each case, the rest of their submissions being in writing. (One member of the Committee, Shri Alladi Krishnaswami Ayyar, considers it unnecessary expressly to mention this power in this article, because in his view the position of the Supreme Court in India, in respect of its general appellate functions, is different from that of the Supreme Court of the United States.)

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make rules for regulating generally the practice and procedure of the Court including—

- (a) rules as to the persons practising before the court,
 - (b) rules as to the procedure for hearing appeals and other matters including the time within which appeals to the Court are to be entered and the time to be allowed to advocates appearing before the court to make their submissions in respect thereof, 5 10
 - (c) rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein,
 - (d) rules as to the granting of bail, 15
 - (e) rules as to stay of proceedings, and
 - (f) rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay. 20
- (2) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be five: 25
- Provided that it shall be open to every judge to sit for the said purposes unless owing to illness, personal interest or other sufficient cause he is unable to do so.
- (3) No opinion for the purpose of any report under article 119 of this Constitution and no judgment shall be delivered by the Supreme Court save in open court. 30
- (4) No such report shall be made and no judgment shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion or judgment.

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Salaries, allowances and pensions of officers and servants and the expenses of the Supreme Court.	122. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of the Supreme Court shall be fixed by the Chief Justice of India in consultation with the President.	
	(2) The administrative expenses of the Supreme 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 revenues of India, and any fees or other moneys taken by the court shall form part of those revenues.	5
		10
Construction of references to High Courts in States specified in Part III of the First Schedule.	123. (1) References in articles 103 and 106 of this Chapter to a High Court in, or exercising jurisdiction in, a State for the time being specified in Part III of the First Schedule shall be construed as references to any court which the President may, upon being satisfied after consultation with the Supreme Court and the Ruler of the State that such court is a court comparable to any of the High Courts in the States for the time being specified in Part I of that Schedule, declare to be a High Court for the purposes of those articles.	15
	(2) References in articles 110 and 113 of this Chapter to a High Court in a State for the time being specified in Part III of the First Schedule shall be construed as references to the court of final jurisdiction in the State with regard to the proceeding in respect of which an appeal or reference is provided for in those articles.	20
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CHAPTER V—Auditor = General of India

Auditor-General of India.	124. (1) There shall be an Auditor-General of India, who shall be appointed by the President and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court.	30
	(2) The salary, allowances and other conditions of service of the Auditor-General shall be such as may be determined by Parliament by law and until they are so determined shall be as specified in the Second Schedule:	35

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Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office. 5

(4) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-General shall be fixed by the Auditor-General in consultation with the President. 10

(5) The salaries, allowances and pensions payable to or in respect of the Auditor-General and members of his staff shall be charged upon the revenues of India. 15

Duties and powers of the Auditor-General. 125. The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Government of India and of the Government of any State as are or may be prescribed by or under any law made by Parliament. 20

Explanation.—In this article the expression “law made by Parliament” includes any existing law for the time being in force in the territory of India.

Power of Auditor-General of India to give directions as to accounts. 126. The accounts of the Government of India shall be kept in such form as the Auditor-General of India may, with the approval of the President, prescribe and. in so far as the Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance; with which any accounts of the Government of any State ought to be kept, it shall be the duty of the Government of the State to cause accounts to be kept accordingly. 25 30

Audit reports. 127. The reports of the Auditor-General of India relating to the accounts of the Government of India shall be submitted to the President, who shall cause them to be laid before Parliament. 35

PART VI

The States in Part I of the First Schedule

CHAPTER I—GENERAL

Definition.	128. In this Part, unless the context otherwise requires, the expression “State” means a State for the time being specified in Part I of the First Schedule.	5
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CHAPTER II—THE EXECUTIVE

The Governor 10

Governors of States.	129. There shall be a Governor for each State.	
Executive power of States	130. (1) The executive power of the State Shall be vested in the Governor and may be exercised by him in accordance with the Constitution and the law.	
	(2) Nothing in this article shall—	15
	(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or	
	(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.	20
Election of Governor.	131. The Governor of a State shall be elected by direct vote of all persons who have the right to vote at a general election for the Legislative Assembly of the State.	25

Alternatively

Appointment of Governor.	*131. The Governor of a State shall be appointed by the President by warrant under his hand and seal from a panel of four candidates to be elected by the members of the Legislative Assembly of the State,	30
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*Some of the members of the Committee are strongly in favour of this alternative, because they consider that the co-existence of a Governor elected by the people and a Prime Minister responsible to the Legislature might lead to friction and consequent weakness in administration.

	or, where there is a Legislative Council in the State, by all the members of the Legislative Assembly and of the Legislative Council of the State assembled at a joint meeting, in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.	5
Term of office of Governor.	132. The Governor shall hold office for a term of <u>*five years</u> from the date on which he enters upon his office:	10
	Provided that—	
	(a) a Governor may, by resignation under his hand addressed to the Speaker of the Legislative Assembly of the State or where there are two Houses of the Legislature of the State, to the Speaker of the Legislative Assembly and the Chairman of the Legislative Council of the State, resign his office;	15
	(b) a Governor may, for <u>**violation of the Constitution</u> , be removed from office by <u>impeachment</u> in the manner provided in article 137 of this Constitution;	20
	(c) a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.	25
Eligibility for re-election/ <u>re-appointment</u> as Governor.	***133. A person who holds, or who has held, office as Governor shall be eligible for re-election/ <u>re-appointment</u> to that office once, but only once.	30
Qualifications for election as Governor.	134. (1) No person shall be eligible for election as Governor unless he is a citizen of India and has completed the age of thirty five years.	

*The Committee is of opinion that the term of office of the Governor should be five years instead of four years in view of the change suggested by the Committee in the life of the Assembly from four years to five years.

**The Committee is of opinion that the Governor should be impeached only for violation of the Constitution as in the case of the President and not for any misbehaviour.

***If the second alternative is adopted in article 131, the word "re-appointment" will have to be used in this article instead of the word "re-election"

(2) A person shall not be eligible for election as a Governor of a State—

- (a) if he is disqualified for being chosen as a member of the Legislative Assembly of the State:

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Provided that it shall not be necessary for any such person to be a resident of the State; or

- (b) if he holds any office or position of emolument under the Government of India or the Government of any State for the time being specified in the First Schedule, or under any local or other authority subject to the control of any of the said Governments.

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Explanation.—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

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- (a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

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- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

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Alternatively

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Qualifications for appointment as Governor.

*134. (1) No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

(2) A person shall not be eligible for appointment as Governor of a State if he is disqualified for being chosen as a member of the Legislative Assembly of the State*

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Provided that it shall not be necessary for any such person to be a resident of the State.

Conditions of Governor's office.

135. (1) The Governor shall not be a member either of Parliament or of the Legislature of any State for the time being specified in the First

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*If the second alternative is adopted in article 131, this alternative will have to be adopted in the present article.

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Schedule, and if a member of Parliament or of the Legislature of any such State be elected/*appointed Governor, he shall be deemed to have vacated His seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Governor. 5

(2) The Governor shall not hold any other office or position of emolument.

(3) The Governor shall have an official residence, and there shall be paid to the Governor such emoluments and allowances as may be determined by the Legislature of the State by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule. 10

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office. 15

Affirmation or oath by the Governor or person discharging the functions of the Governor before entering office.

136. Every Governor and every person discharging the functions of the Governor shall before entering upon his office make and subscribe in the presence of the members of the Legislature of the State an affirmation or oath in the following form, that is to say:— 20

“I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of _____ (name of the State) 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 _____ (name of the State).” 25 30

Procedure for impeachment of the Governor.

137. (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by the Legislative Assembly of the State.

(2) No such charge shall be preferred unless— 35

(a) the proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the Assembly has been given of their intention to move the resolution, and 40

*If the second alternative is adopted in article 131, the word “appointed” will have to be used in clause (1) of this article instead of the word “elected”.

(b) the resolution has been supported by not less than two-thirds of the total membership of the Assembly.

(3) When a charge has been so preferred, the Speaker of the Assembly shall inform the Chairman of the Council of States and thereupon the Council of States shall appoint a committee which may consist of or include persons who are not members of the Council, to investigate the charge and the Governor shall have the right to appear and to be represented at such investigation. 5 10

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the Council of States declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is communicated to the Speaker of the Assembly. 15

Power of the Legislature of the State/the President to provide for the discharge of the functions of the Governor in certain contingencies.

*138. The Legislature of a State may make such provision as it thinks fit/The President may make such provision as he thinks fit for the discharge of the functions of the Governor of the/a State in any contingency not provided for in this Chapter. 20

*If the second alternative is adopted in article 131, the words "The President may make such provision as he thinks fit" will have to be used in this article instead of the words "The Legislature of a State may make such provision as it thinks fit" and the words "a State" will have to be used for the words "the State" in this article.

The Committee is of opinion that whether the Governor is elected by the people or appointed by the President from a panel elected by the Legislature, it is unnecessary to have a Deputy Governor. Unlike the Vice-President at the Centre, the Deputy Governor cannot be made *ex-officio* Chairman of the Upper House, because in most of the States there will be no Upper House. The result is that the Deputy Governor will have no definite function to perform so long as the Governor is there. The only ground for creating the office of a Deputy Governor appears to be that there must be some person to step into the position of the Governor upon the occurrence of a sudden vacancy. The making of such a provision can be left to the Legislature of the State or to the President, as the case may be, *e.g.*, the Legislature or the President may provide in advance that, in the event of a sudden vacancy occurring in the office of the Governor, the Chief Justice shall discharge the functions of the Governor (*cf.* paragraph. 6 of the Letters Patent constituting the office of Governor-General of the Union of South Africa, where it is provided that the Chief Justice of South Africa may, in certain contingencies, exercise the powers of the Governor-General.)

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Time of holding elections/ <u>time of holding elec- tions to consti- tute a panel</u> for the filling of vacancies in the office Governor.	*139. (1) An election/ <u>An election to constitute a panel</u> for the purpose of filling a vacancy caused by the expiration of the term of office of a Governor shall be completed before the expiration of the term.	5
	(2) An election / <u>An election to constitute a panel</u> for the purpose of filling a vacancy in the office of Governor occurring by reason of his death, resignation or removal or otherwise shall be held as soon as possible after the occurrence of the vacancy and the person elected/ <u>appointed</u> to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 132 of this Constitution.	10
Matters relating to or connected with the election of a Governor/ the election to constitute a panel for the appoint- ment of a Governor.	**140. (1) All doubts and disputes arising out of or in connection with the election of a Governor/ <u>the election to constitute a panel for the purpose of the appointment of a Governor</u> shall be inquired into and decided by the Supreme Court whose decision shall be final.	15 20
	(2) Subject to the provisions of this Constitution, the Legislature of the State may, by law, regulate any matter relating to or connected with the election of a Governor/ <u>the election to constitute a panel for the purpose of the appointment of a Governor</u> .	25
Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases	141. The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment, or to suspend, remit or commute the sentence, of any person convicted of any offence against any law relating to a matter with respect to which the Legislature of the State has power to make laws.	30

*If the second alternative is adopted in article 131, then the words "An election to constitute a panel" will have to be used in clauses (1) and (2) of this article instead of the words "An election" and the word "appointed" will have to be used in clause (2) of this article instead of the word "elected".

**If the second alternative is adopted in article 131, then the words "the election to constitute a panel for the purpose of the appointment of a Governor" will have to be used in clauses (1) and (2) of this article instead of the words "the election of a Governor".