Provided that if provision is made by the appropriate Legislature for the establishment of a High Court to replace any court or courts mentioned in this clause, then, as from the establishment of the new court, this article shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced.

(2) Save as otherwise provided, the provisions of this Chapter shall apply to every High Court referred to in clause (1) of this article.

Constitution of High Courts.

192. Every High Court shall be a court of record and shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint:

Provided that the judges so appointed together with any additional judges appointed by the President in accordance with the following provisions of this Chapter shall at no time exceed in number such maximum as the President may by order fix in relation to that Court.

Appointment and conditions of the office, of a High Court.

193. (1) Every judge of a High Court shall be appointed by the President by a warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court of the State, and shall hold office until he attains the age of sixty years *<u>or such higher age not exceeding sixty-five years as may be fixed in this behalf by law of the Legislature of the State:</u>

*The provision for a higher age than 60 years does not exist in the Government of India Act, 1935. The result is that the best men from the Bar often refuse appointments on the Bench because under the existing age-limit of 60 years they would not have time to earn a full pension. It hay also been pointed out that when the age-limit for judges of the Supreme Court is 65 years it would not be possible to hold that a judge was too old for a High Court after 60. In view of the different conditions prevailing in different States, the Committee has added the underlined words in this article so as to enable the Legislature of each State to fix any age-limit not exceeding 65 years.

Provided that—

(a) a judge may, by writing under his hand addressed to the Governor, resign his office;

(b) a judge may be removed from his office by the President in the manner provided in clause (4) of article 103 of this Constitution for the removal of a judge of the Supreme Court;

(c) the office of the judge shall be vacated by his being appointed by the President to be a judge of the Supreme Court or of any other High Court.

(2) A person shall not be qualified for appointment as a judge of a High Court unless he is a citizen of India and—

(a) has held for at least ten years a judicial office in any State in or for which there is a High Court; or

(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.—For the purposes of this clause—

(a) in computing the period during which a person has been an advocate of a High Court, there shall be included any period during which a person held judicial office after he became an advocate;

(b) in computing the period during which a person has held judicial office in a State; for the time being specified in Part I or Part II of the First Schedule or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he held judicial office in any area which was comprised before the fifteenth day of August, 1947, within British India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

Explanation II.—In sub-clauses (a) and (b) of this clause, the reference to a High Court shall be construed as including a reference to a court in a State for the time being specified in Part III of the First Schedule which is a High Court for the purposes of articles 103 and 106 of this Constitution.

Application of certain provisions relating to Supreme Court to High Courts.

194. The provisions of clauses (4) and (5) of article 103 of this Constitution shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

Declaration by judges of High Courts before entering office.

195. Every person appointed to be a judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule.

Prohibition of practising in courts or before any authority by a person who held office as a judge of a High Court.

*196. No person who has held office—

(a) as a judge of a High Court, or

(b) as an additional judge or temporary judge of a High Court on having been recruited from the Bar,

shall plead or act in any Court or before any authority within the territory of India.

Salaries, etc. of judges.

197. The judges of each High 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 the Legislature of the State in which the Court has its principal seat, 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:

Provided that the salary of the Chief Justice of a High Court shall not be less than four thousand

*The Committee is of opinion that a person who has held office as judge of a High Court should be prohibited from practicing in any court or before any authority and so also persons who have held office as additional judges or temporary judges of the court on having been recruited from the Bar.

rupees per month and the salary of any other judge of a High Court shall not be less than three thousand and five hundred rupees per month:

Provided further 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.

Temporary judges.

198. (1) When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

(2) (a) When the office of any other judge of a High Court is vacant or when any such judge is appointed to act temporarily as a Chief Justice, or is unable to perform the duties of his office by reason of absence or otherwise, the President may appoint a person duly qualified for appointment as a judge to act as a judge of that court.

(b) The person appointed shall, while so acting, be deemed to be a judge of the court.

(c) Nothing contained in this clause shall prevent the President from revoking any appointment made under this clause.

Additional judges.

199. If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such court, it appears to the President that the number of the judges of the court should be for the time being increased, the President may, subject to the foregoing provisions of this Chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to be additional judges of the court for such period not exceeding two years as he may specify.

Attendance of retired judges at sittings of High Courts

*200. Notwithstanding anything contained in this Chapter, the Chief Justice of a High Court may at any time, subject to the provisions of this article, request any person who has held the office of a judge of that court to sit and act as a judge of the 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:

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.

Jurisdiction of existing High Courts.

201. Subject to the provisions of this Constitution and to any provisions of any law of the appropriate Legislature made by virtue of the powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the judges thereof in relation to the administration, of justice in the court, including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction of any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

Power of High Courts to issue certain writs.

202. (1) Notwithstanding anything contained in article 25 of this Constitution, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for the enforcement of any of the rights conferred by Part III of this Constitution and for any other purpose.

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

(2) The power conferred on a High Court by clause (1) of this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 25 of this Constitution.

Administrative functions of High Courts.

203. (1) Every High Court shall have superintendence over all courts throughout the territories in relation to which it exercises jurisdiction.

(2) The High Court may—

(a) call for returns from such courts;

(b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, or withdraw such suit or appeal from any such court to itself;

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

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

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

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

Transfer of certain cases to High Court for trial.

204. If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution, it shall withdraw the case to itself and dispose of the same.

Explanation.—In this article, "High Court" includes a court of final jurisdiction in a State for the time being specified in Part III of the First Schedule with regard to the case so pending.

Salaries, allowances and pensions of officers and servants and the expenses of High Courts.

205. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of a High Court shall be fixed by the Chief Justice of the court in consultation with the Governor of the State in which the High Court has its principal seat.

(2) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of officers and servants of the court, and the salaries and allowances of the judges of the court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the court shall form part of those revenues.

Power to constitute or re-constitute High Court.

206. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may, by law, constitute a High Court for the State or any part thereof or reconstitute in like manner any existing High Court for that State or for any part thereof, or where there are two High Courts in that State, amalgamate those courts.

(2) Where any court is reconstituted, or two courts are amalgamated, as aforesaid, the law made by the Legislature of the State shall provide for—

(a) the continuance in their respective offices of all the existing judges of the court or courts and of such of the existing officers and servants of the court or courts as may be deemed necessary; and

(b) the carrying on before the reconstituted court or the new court of all pending matters.

and may contain such other provision as may appear to be necessary by reason of the re constitution or amalgamation.

Extension of or exclusion from the jurisdiction of High Courts.

207. Parliament may by law—

(a) extend the jurisdiction of a High Court to, or

(b) exclude the jurisdiction of a High Court from,

any State other than, or any area not within, the State in which the High Court has its principal seat:

Provided that no Bill for any such purpose shall be introduced in either House of Parliament unless—

(i) where the jurisdiction is to be extended to or excluded from a State for the time being specified in Part I or Division A of Part III of the First Schedule or any area within such State, the consent of such other State has been obtained; and

(ii) where the jurisdiction is to be extended, the consent of the State in which the High Court has its principal seat has also been obtained

Restrictions on the power of the Legislatures of States to make laws with respect to jurisdiction of a High Court in a State having jurisdiction outside that State.

208. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

(a) as empowering the Legislature of the State in which the court has its principal seat to increase, restrict or abolish that jurisdiction;

(b) as empowering the Legislature of a State for the time being specified in Part I or Part III of the First Schedule in which any such area is situate, to abolish that jurisdiction; or

(c) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b) of this article, such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area.

Interpretation.

209. Where a High Court exercises jurisdiction in relation to more than one State or in relation to a State and an area not forming part of the State—

(a) references in this Chapter to the Governor in relation to the judges of a High Court shall be construed as references to the Governor of the State in which the court has its principal seat;

(b) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a refer-

ence to the approval thereof by the Governor or the Ruler of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State for the time being specified in Part I or Part III of the First Schedule, by the President; and

(c) references to the revenues of the State shall be construed as references to the revenues of the State in which the court has its principal seat.

CHAPTER IX—*Auditors-in-Chief for the States

Auditor-in-Chief for a State.

210. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may by law provide for the appointment of an Auditor-in-Chief for the State and when such provision has been made an Auditor-in-Chief for that State may be appointed by the Governor in his discretion and the Auditor-in-Chief so appointed shall only be removed from office in like manner and on the like grounds as a judge of the High Court of the State.

(2) An Act passed under clause (1) of this article by the Legislature of a State shall provide that no appointment of an Auditor-in-Chief for the State shall be made until the expiration of at least three years from the date of the publication after assent of the Act.

(3) Every such Act shall prescribe the conditions of service of the Auditor-in-Chief and the duties which shall be performed and the powers which shall be exercised by the Auditor-in-Chief in relation to the accounts of the State and shall declare the salary, allowances and pension payable to or in respect of the Auditor-in-Chief to be charged on the revenues of the State.

*The Committee is of opinion that the person performing the functions of an Auditor-General in a State should be designated as Auditor-in-Chief to distinguish him from the Auditor-General of India.

(4) The Auditor-in-Chief of the State shall be eligible for appointment as Auditor-General of India or as Auditor-in-Chief for any other State for the time being specified in Part I of the First Schedule but not for any other appointment either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-in-Chief of a State shall be fixed by the Auditor-in-Chief in consultation with the Governor and shall be charged upon the revenues of the State.

(6) Nothing in this article shall derogate from the power of the Auditor-General of India to give such directions in respect of the accounts of the States for the time being specified in Part I of the First Schedule as are mentioned in article 126 of this Constitution.

Audit reports

211. The reports of the Auditor-General of India or the Auditor-in-Chief of the State, as the case may be, relating to the accounts of a State for the time being specified in Part I of the First Schedule shall be submitted to the Governor of the State, who snail cause them to be laid before the Legislature of the State.

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PART VII

*The States in Part II of the First Schedule

Administration of States in Part. II of the First Schedule.

212. (1) Subject to the other provisions of this Part, a State for the time being specified in Part II of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Governor or Ruler of a neighbouring State:

Provided that the President shall not act through the Governor or Ruler of a neighbouring State save after—

(a) consulting the Governor or Ruler concerned; and

(b) ascertaining in such manner as the President considers most appropriate the wishes of the people of the State to be so administered.

**(2) Any State for the time being specified in Part III of the First Schedule whose Ruler has ceded full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State to the Government of India shall be administered in all respects as if the State were for the time being specified in Part II of the First Schedule; and, accordingly, all the provisions of this Constitution relating to States specified in the said Part II shall apply to such State.

*The Committee is of opinion that it is not necessary to make any detailed provisions with regard to the Constitution of the States specified in Part II of the First Schedule which are at present Chief Commissioners' Provinces on the lines suggested by the *ad hoc* Committee on Chief Commissioners' Provinces in their recommendations. The revised provisions proposed in this Part would enable the recommendations of the *ad hoc* Committee, if adopted by the Constituent Assembly, to be given effect to by the President by order.

**This clause has been inserted by the Committee to provide for the administration of State.; in Part III of the First Schedule (*e.g.* the Orissa States) which have ceded full and exclusive authority, jurisdiction and powers to the Government of India.

Creation or continuance of local Legislature or Council of Advisors.

213. The President may, by order, create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

(a) a local Legislature, or

(b) a Council of Advisers

or both, with such constitution, powers and functions, in each case, as may be specified in the order.

Coorg.

214. Until other provision is made in this behalf by the President, the constitution, powers and functions of the Coorg Legislative Council and the arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall remain unchanged.

Part VIII

The Territories in Part IV of the First Schedule and other Territories Not Specified in that Schedule

Administration of territories specified in Part IV of the First Schedule and other territories not specified in that Schedule.

215. (1) Any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him.

(2) The President may make regulations for the peace and good government of any such territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to such territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to such territory.

PART IX

Relations between the Union and the States

CHAPTER I—Legislative Relations

DISTRIBUTION OF LEGISLATIVE POWERS

Extent of laws made by Parliament and by the Legislatures of States.

216. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Subject-matter of laws made by Parliament and by the Legislatures of States.

*217. (1) Notwithstanding anything in the two next succeeding clauses, Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in the next succeeding clause, Parliament and, subject to the preceding clause, the Legislature of any State for the time being specified in Part I of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the

*Shri Alladi Krishnaswami Ayyar was of opinion that instead of following the old plan of legislative distribution this clause might, in view of the fact that the residuary power is to be in Parliament, begin with the legislative powers of the State, then deal with the concurrent powers and then with the legislative powers of Parliament. As the question was merely one of form, the majority of the members preferred not to disturb the existing arrangement.

Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to the two preceding clauses, the Legislature of any State for the time being specified in Part I of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included for the time being in Part I or Part III of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

Legislation with respect to the Supreme Court.

*218. Parliament has the exclusive power to make laws with respect to the constitution, organisation, jurisdiction and powers of the Supreme Court.

Power of Parliament to provide for the establishment of certain additional courts.

219. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Legislation with respect to constitution and organisation of High Courts.

*22G. (1) The Legislature of a State for the time being specified in Part I of the First Schedule has the exclusive power to make laws with respect to the constitution and organisation of any High Court having its principal seat within such State.

(2) Parliament has power to make laws with respect to the constitution and organisation of any High Court having its principal seat in a State for the time being specified in Part II of the First Schedule.

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Legislation with respect to jurisdiction and powers of High Courts.

*221. (1) Parliament has the exclusive power to make laws regarding the jurisdiction and powers of any High Court with respect to any of the matters enumerated in the Union List.

(2) The Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction has the exclusive power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the State List.

(3) Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction have power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the Concurrent List.

(4) Parliament has power to make laws regarding the jurisdiction and powers of a High Court in relation to a State for the time being specified in Part II of the First Schedule or any area within such State with respect to any of the matters enumerated in the State List.

Legislation with respect to the procedure to be followed by High Courts in civil and criminal matters.

*222. Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in which a High Court has its principal seat have power to make laws with respect to the procedure to be followed by such High Court in civil and criminal matters.

Residuary powers of legislation.

223. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Restriction on powers of Parliament to make laws with respect to certain matters in relation to States in Part III of the First Schedule.

*224. Notwithstanding anything in clause (1) of article 217 of this Constitution—

(a) Parliament shall not have power to make laws with respect to any right relating to posts and telegraphs in any State or group of States for the time being specified in Part III of the First Schedule subsisting at the date of commencement of this Constitution until such right is extinguished by agreement between the Government of India and that State or group of States or is acquired by the Government of India:

Provided that nothing in this clause shall prevent Parliament from making any law for the regulation and control of posts and telegraphs in such State or group of States;

(b) the power of Parliament to make laws with respect to telephones, wireless, broadcasting and other like forms of communication in any State for the time being specified in Part III of the First Schedule shall extend only to the making of laws for their regulation and control;

(c) the power of Parliament to make laws with respect to corporations shall not include the power to make laws with respect to the incorporation, regulation and winding up of corporations owned or controlled by a State for the time being specified in Part III of the First Schedule and carrying on business only within that State.

Extent of power to legislate for States in Part III of the First Schedule.

225. Notwithstanding anything in this Chapter, the power of Parliament to make laws for a State or a group of States for the time being specified in Part III of the First Schedule shall be subject to the terms of any agreement entered into in that behalf by that State or group of States with the Government of India and the limitations contained therein.

* The Committee is of opinion that some articles of this Chapter will require rearrangement before the Constitution is finally passed by the Constituent Assembly.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

*226. Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter.

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

227, (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

Inconsistency between laws made by Parliament under articles 226 and 227 and laws made by the Legislatures of States.

**228. Nothing in articles 226 and 227 of this Constitution shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament,

* The Committee is of opinion that power should be provided for Parliament to legislate with respect to any matter in the State List when it assumes national importance; and has inserted this article for the purpose.

** The Committee by a majority has decided that when Parliament makes a law with respect to any matter in the State List in the national interest it should be treated as akin to a matter in the Concurrent List, but Shri Alladi Krishnaswami Ayyar is against the retention of power of legislation to the States in such cases as in his opinion the retention of such power would offer a premium for the union gradually encroaching on the State field and, striking at the federal structure of the constitution.

whether passed before or after the law made by the Legislature of the State shall prevail, and the Jaw made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

Power of Parliament to legislate for one or more States by consent and adoption of such legislation by any other State.

229. (1) If it appears to the Legislature or Legislatures of one or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the State or States except as provided in articles 226 and 227 of this Constitution should be regulated in such State or States by Parliament by law, and a resolution or resolutions to that effect is or are passed by the House or, where there are two Houses, by both the Houses of the Legislature of the State or of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such State or States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or. where there are two Houses, by each of the Houses of the Legislature of that State.

*(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Legislation for giving effect to international agreements.

**230. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries.

* The Committee is of opinion that an Act passed by Parliament with the consent of the States should not he allowed to be amended or repealed by any Act of the Legislature of any State to which it applies, but should be amended or repealed only by an Act of Parliament passed or adopted in the same manner in which the principal Act was passed or adopted. This is in conformity with the provisions of section 51 (*xxxvii*) read with section 109 of the Commonwealth of Australia Constitution Act.

** The Committee is of opinion that Parliament should have unfettered power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any foreign country or countries.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

231. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to make laws, then, subject to the provisions of clause (2) of this article, the law made by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State for the time being Specified in Part I of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or any existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repeating the law so made by the Legislature of the State.

Restriction on Legislative Powers

Requirements as to recommendations to be regarded as matters of procedure only.

232. No Act of Parliament or of a Legislature of a State for the time being specified in Part I of the First Schedule and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given—

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(b) where the recommendation required was that of the President, by the President.

CHAPTER II—Administrative Relations

General

Obligation of States and the Union.

233. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for this purpose.

Duty of States not to impede or prejudice authority of the Union.

234. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

Power of the Union to confer powers, etc. on States in certain cases.

235. (1) Notwithstanding anything in this Constitution, the President may with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and

impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Power of the Union to undertake legislative, executive or judicial functions in certain States.

236. (1) The Government of India, may by agreement with any State for the time being specified in Part III of the First Schedule, but subject to the provisions of this Constitution in regard to the relationship between the Union and such State, undertake any executive, legislative or judicial functions vested in that State.

(2) The Government of India may also enter into such an agreement with the Government of any Indian State not specified for the time being in the First Schedule, but every such agreement shall be subject to, and governed by, the law relating to the exercise of foreign jurisdiction for the time being in force.

Explanation.—In this clause, the expression "Indian State" means any territory, not being part of the territory of India which the President recognises as being such a State.

(3) If an agreement entered into with any State under clause (1) of this article provides for any matter with respect to which provision has been already made in an agreement entered into with such a State under article 237 of this Constitution by the Government of any State for the time being specified in Part I of the First Schedule, then the latter agreement shall, in so far as it provides for such matter, be deemed to be revoked and of no effect on and from the date of conclusion of the former agreement.

(4) On an agreement under clause (1) of this article being concluded between the Union and a State for the time being specified in Part III of the First Schedule—

(a) the executive power of the Union shall extend to any matter specified in that behalf in such agreement;

(b) Parliament shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) the Supreme Court of India shall, subject to the provisions of clause (2) of article 114 of this Constitution, have jurisdiction with respect to any matter specified in that behalf in such agreement.

Power of States in Part I of the First Schedule to undertake legislative, executive or judicial functions in a State in Part III of the First Schedule.

237. (1) It shall be competent for the Government of a State for the time being specified in Part I of the First Schedule with the previous sanction of the President to undertake, by an agreement made in that behalf with any State for the time being specified in Part III of the First Schedule, any legislative, executive or judicial functions vested in the latter State, if such agreement relates to a matter which is enumerated in the State List or the Concurrent List.

(2) On an agreement under clause (I) of this article being concluded between a State for the time being specified in Part I of the First Schedule and a State for the time being specified in Part III of that Schedule—

(a) the executive power of the State specified in Part I of the said Schedule shall extend to any matter specified in that behalf in such agreement;

(b) the Legislature of the State specified in Part I of the said Schedule shall have power to make laws with respect to any matter specified in that behalf in such agreement; and

(c) the High Court and other appropriate courts in the State specified in Part I of the said Schedule shall have jurisdiction with respect to any matter specified in that behalf in such agreement.

Public acts, records and judicial proceedings.

*238. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) of this article shall be proved and the effect thereof determined shall be as provided by law.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law:

Provided that the provisions of clauses (1) and (3) of this article shall not apply to public acts, records and judicial proceedings of, and the final judgment or order delivered or passed by civil courts in, any State for the time being specified in Part III of the First Schedule unless Parliament has, under the terms of any agreement entered into in that behalf by such State with the Union, power to make laws with respect to the matters enumerated in entries 2, 4 and 5 of the Concurrent List.

Interference with Water-Supplies

Complaints as to interference with water supplies

239. If it appears to the Government of any State for the time being specified in Part I or Part III of the First Schedule that the interests of that State, or of any of the inhabitants thereof, in the water from any natural source of supply in any State have been, or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed; or

* The Committee is of opinion that this article should more-appropriately be included in this Chapter than in Part III dealing with Fundamental Rights.

The Committee is further of opinion that effect ought not to be given to the provisions of this article in relation to every State for the time being specified in Part III of the First Schedule as the laws relating to subjects, such as Civil Procedure, Criminal Procedure and Evidence, enumerated in the Concurrent List may be different in different States. The Committee has therefore revised this clause so as to restrict its application only to such of those States as have acceded to the Union in respect of such subjects in the Concurrent List.