

Decision of complaints.	(b) the failure of any authority to exercise any of their powers.	
	with respect to the use, distribution or control of water from that source, the Government of the State may complain to the President.	5
	240. (1) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law as he thinks fit, and request that Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them.	10 15
	(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.	20
	(3) If it appears to the President upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.	25
	(4) For the purposes of assisting a Commission appointed under this article in investigating any matters referred to them, the Supreme Court, if requested by the Commission so to do, shall make such orders for the purposes of the proceedings of the Commission as they may make in the exercise of the jurisdiction of the court.	30 35
	(5) The report of the Commission shall include a recommendation as to the Government or persons by whom the expenses of the Commission and any costs incurred by any State or persons in appearing before the Commission are to be paid and as to the amount of any expenses or costs to be so paid; and an order made by the President under this article, in so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.	40 45

(6) After considering any report made to him by the Commission the President shall, subject as hereinafter provided, make orders in accordance with the report,

(7) If upon consideration of the Commission's report the President is of opinion that anything therein contained involves a substantial question of law, he shall refer the question to the Supreme Court under article 119 of this Constitution and on receipt of the opinion of the Supreme Court thereon shall, unless the Supreme Court has agreed with the Commission's report, return the report to the Commission together with the opinion and the Commission shall thereupon make such modifications in the report as may be necessary to bring it in accord with such opinion and present the report as so modified to the President.

(8) Effect shall be given, in any State affected, to any order made under this article by the President, and any Act of the Legislature of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(9) The President, on application made to him by the Government of any State affected, may at any time, if a Commission appointed as aforesaid so recommend, vary any order made under this article.

Interference
with water
supplies of
States in
Part II of the
First Schedule.

241. If it appears to the President that the interests of any State for the time being specified in Part II of the First Schedule, or of any of the inhabitants of such a State, in the water from any natural source of supply in any State for the time being specified in Part I or Part III of the First Schedule 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

(b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, he may, if he thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding article and

	thereupon those provisions shall apply as if the State for the time being specified in Part II of the First Schedule were a State for the time being specified in Part I of that Schedule and as if a complaint with respect to the matter had been made by the Government of that State to the President.	5
Jurisdiction of courts excluded.	242. Notwithstanding anything in this Constitution, neither the Supreme Court nor any other court shall have jurisdiction to entertain any action or suit in respect of any matter, if action in respect of that matter might have been taken under any of the three last preceding articles by the Government of a State or the President.	10

Inter-State Trade and Commerce

Prohibition of preference or discrimination to one State over another by any law or regulation relating to trade or commerce.	*243. No preference shall be given to one State over another nor shall any discrimination be made between one State and another by any law or regulation relating to trade or commerce, whether carried by land, water or air.	15
Restriction on trade, commerce and intercourse between States.	*244. Notwithstanding anything contained in article 16 or in the last preceding article of this Constitution, it shall be lawful for any State—	20
	(a) to impose on goods imported from other States any tax to which similar goods manufactured or produced in that State are subject, so, however, as not to discriminate between goods so imported and goods so manufactured or produced; and	25
	(b) to impose by law such reasonable restrictions on the freedom of trade, commerce or intercourse with that State as may be required in the public interests;	30

Provided that during a period of five years from the commencement of this Constitution the provisions

* The Committee is of opinion that the provisions contained in articles 243 and 244 should more appropriately be included in this Chapter than in Part III dealing with Fundamental Rights.

of clause (b) of this article shall not apply to trade or commerce in any of the commodities mentioned in clause (a) of article 306 of this Constitution.

Appointment of authority to carry out the provisions of articles 243 and 244. *245. Parliament shall by law appoint such authority as it considers appropriate for the carrying out of the provisions of articles 243 and 244 of this Constitution and confer on the authority so appointed such powers and such duties as it thinks necessary. 5

Co-ordination between States

Provisions with respect to an Inter-State Council 246. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of— 10

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States have a common interest; or 15
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject, 20

it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure. 25

*The Committee is of opinion that it would be more appropriate to provide for the appointment of an authority by law for the purpose of carrying out the provisions of articles 243 and 244 instead of providing for an Inter-State Commission with limited powers as such a Commission, if appointed with powers only to adjudicate disputes as to trade or commerce, may not have sufficient work to do.

PART X

Finance, Property, Contracts and Suits

CHAPTER I—Finance

*DISTRIBUTION OF REVENUES BETWEEN THE UNION AND THE STATES

- Interpretation 247. In this Part, unless the context otherwise requires,—
- (a) “Finance Commission” means a Finance Commission constituted under article 260 of this Constitution; 10
 - (b) “State” does not include a State for the time being specified in Part II of the First Schedule;
 - (c) references to States for the time being specified in Part II of the First Schedule shall include references to 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. 15 20
- Meaning of “revenues of India” and “revenues of the State.” 248. Subject to the following provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, the expression ‘revenues of India’ includes all revenues and public moneys raised or received by the Government of India and the expression ‘revenues of the State’ includes all revenues and public moneys raised or received by the Government of a State. 25

*The Committee has not embodied in the Draft the recommendations of the Expert Committee on the Financial Provisions of the Constitution with regard to the distribution of revenues between the Union and the States, as the Committee is of opinion that in view of the unstable conditions prevailing at the present moment the existing distribution of such revenues under the Government of India Act. 1935, should continue for at least five years, after which a Finance Commission may review the position. The Committee agrees with the Expert Committee that steps should be taken for the collection, compilation and maintenance of statistical information referred to in paragraph 66 of the report of the Expert Committee in order that such information might be available to the Finance Commission when appointed.

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Duties levied by the Union but collected and appropriated by the States.	249. (1) Such stamp duties <u>and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List</u> shall be levied by the Government of India but shall be collected—	
	(a) in the case where such duties are leviable within any State for the time being specified in Part II of the First Schedule, by the Government of India, and	5
	(b) in other cases, by the States within which such duties are respectively leviable.	10
	(2) The proceeds in any financial year of any such duty leviable in that year within any State shall not form part of the revenues of India, but shall be assigned to that State.	
Taxes levied and collected by the Union but assigned to the States.	250. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2) of this article, namely:—	15
	(a) duties in respect of succession to property other than agricultural land;	20
	(b) estate duty in respect of property other than agricultural land;	
	(c) terminal taxes on goods or passengers carried by railway or air;	
	(d) taxes on railway fares and freights.	25
	(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule, shall not form part of the revenues of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.	30
Taxes levied and collected by the Union and distributed between the Union and the States.	251. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between, the Union and the States in the manner provided in clause (2) of this article.	35
	(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such	40

tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule or the taxes payable in respect of Union emoluments, shall not form part of the revenues of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed. 5

(3) For the purposes of clause (2) of this article : in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to States for the time being specified in Part II of the First Schedule. 10 15

(4) In this article—

(a) “taxes on income” includes any sum levied by the Government of India in lieu of any tax on income as referred to in clause (a) of the proviso to article 266 of this Constitution but does not include a corporation tax; 20

(b) “prescribed” means— 25

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission. 30

(c) “Union emoluments” includes all emoluments and pensions payable out of the revenues of India in respect of which income-tax is chargeable. 35

Surcharge on certain duties and taxes for purposes of the Union.

252. Notwithstanding anything contained in articles 250 and 251 of this Constitution, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the revenues of India. 40

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.	<p>*253. (1) No duties on salt shall be levied by the Union.</p> <p>(2) Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the revenues of India to the States to which the law imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.</p>	5 10
Distribution of duty on jute or jute products.	<p>254. Notwithstanding anything in article 263 of this Constitution, such proportion, as Parliament may by law determine, of the net proceeds in each year of any export duty on jute or jute-products shall not form part of the revenues of India, but shall be assigned to the States in which jute is grown in accordance with such principles of distribution as may be formulated by such law:</p> <p>Provided that until Parliament so determine, there shall be assigned to those States out of the net proceeds of the duty in each year such part thereof and in such proportions as may have been fixed in that behalf by any order made under the Government of India Act, 1935, and in force immediately before the commencement of this Constitution.</p>	15 20 25
Grants from the Union to certain States,	<p>255. Such sums, as Parliament may by law provide, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:</p> <p>Provided that there shall be paid out of the revenues of India as grants-in-aid of the revenues of a State for the time being specified in Part I of the</p>	30 35

* The majority of the members of the Committee are of opinion that there should be no constitutional prohibition regarding the duty on salt and its levy should be left to the discretion of Parliament and accordingly clause (I) of this article is not necessary ; but Shri Alladi Krishnaswami Ayyar is of opinion that this clause should be retained.

	First Schedule such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the scheduled tribes in that State or raising the level of administration of the scheduled areas in that State to that of the administration of the rest of the areas of that State:	5
	Provided further that there shall be paid out of the revenues of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—	10
	(a) the average excess of expenditure over the revenues during the three years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 19 of the sixth Schedule; and	15 20
	(b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.	25
Taxes on professions, trades, callings and employments.	256. (1) Notwithstanding anything in article 217 of this Constitution but subject to the provisions, of clauses (2) and (3) of this article, the Legislature of a State shall have power to make laws with respect to taxes on professions, trades, callings and employments for the benefit of the State or of a municipality, district board, local board or other local authority therein.	30 35
	(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum:	40
	Provided that, if in the financial year immediately preceding the commencement of this Constitution there was in force in any State or any such muni-	

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	<p>pality, board or authority, a tax on professions, trades, callings or employments, the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law. and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.</p>	5
	<p>(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.</p>	10 15
Savings.	<p>257. Any taxes, duties, cesses or fees which immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament.</p>	20 25
Agreement with States specified in Part III of the First Schedule with regard to the levy, collection and distribution of taxes and duties.	<p>258. (1) Notwithstanding anything contained in this Chapter, the Union may, subject to the provisions of clause (2) of this article, enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.</p>	30 35
	<p>(2) An agreement entered into under clause (1) of this article shall continue in force for a period not exceeding ten years from the commencement of this Constitution:</p>	40

	<p>Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.</p>	5
Calculation of "net proceed", etc.	<p>259. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificate shall be final.</p>	10
	<p>(2) Subject as aforesaid, and to any other express provision in this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part of this Constitution the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.</p>	15 20
Finance Commission.	<p>260. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such other time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.</p>	25 30
	<p>(2) Parliament may, by law, determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.</p>	35
	<p>(3) It shall be the duty of the Commission to make recommendations to the President as to—</p>	
	<p>(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;</p>	40

	<p>(b) the principles which should govern the grants-in-aid to the States out of the revenues of India;</p> <p>(c) the continuance or modification of the terms of any agreement entered into by the Union with any State for the time being specified in Part III of the First Schedule as respects the levy, collection and distribution of any tax or duty leviable by the Government of India in such State; and</p> <p>(d) any other matter referred to the Commission by the President in the interest of sound finance.</p> <p>(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.</p>	<p>5</p> <p>10</p> <p>15</p>
Recommendations of the Finance Commission.	<p>261. The President shall cause every recommendation made by the Finance Commission under the foregoing provisions of this Chapter together with an explanatory memorandum as to the action taken thereon to be laid before Parliament.</p>	<p>20</p>
	<p>Miscellaneous Financial Provisions</p>	
Expenditure defrayable out of the revenues of India.	<p>262. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.</p>	<p>25</p>
Provisions as to the custody of public moneys.	<p>263. (1) Rules may be made by the President and by the Governor of a State for the purpose of securing that all moneys received on account of the revenues of India or of the State, as the case may be, shall, with such exceptions, if any, as may be specified in the rules, be paid into the public accounts of India or of the State, and the rules so made may prescribe, or authorise some person to prescribe, the procedure to be followed in respect of the payment of moneys into the said account, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.</p>	<p>30</p> <p>35</p> <p>40</p>

	(2) Notwithstanding anything in this article, Parliament may by law regulate the custody of moneys received on account of the revenues of India their payment into the public account of India and the withdrawal of moneys from such account, and the Legislature of a State may by law regulate the custody of all moneys received on account of the revenues of the State, their payment into the public account of the State and the withdrawal of moneys from such account, and any rules made under this article shall have effect subject to the provisions of any such law.	5 10
Exemption of certain public property from taxation.	264. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or by any authority within a State: Provided that until Parliament, by law, otherwise provides, any property of the Union which was immediately before the commencement of this Constitution liable or treated as liable to any such tax shall, so long as that tax continues, continue to be liable or to be treated as liable thereto.	15 20
Exemption from taxes on electricity.	265. Save in so far as Parliament may, by law, otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by Government or other person) which is— (a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or (b) consumed in the construction, maintenance or operation of a Union railway by the Government or a railway company operating that railway or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of a Union railway, and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or	25 30 35 40

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Exemption of the Governments of States in respect of Union taxa- tion	operation of a Union railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.	
	266. Subject as hereinafter provided, the Govern-ment of a State shall not be liable to Union taxation in respect of lands or buildings situate within the territory of India, or income accruing, arising or received within such territory:	5
	Provided that—	
	(a) where a trade or business of any kind is carried on by or on behalf of the Govern-ment of a State, nothing in this article shall exempt that Government from any Union tax or the levy of a sum in lieu of such tax in respect of that trade or business or any operations connected therewith, or any income arising in con-nection therewith, or any property occupied for the purposes thereof;	10 15
	(b) nothing in this article shall exempt the Ruler of any State for the time being specified in Part III of the First Schedule from any Union tax in respect of lands, buildings or income being his personal property or personal income.	20 26
	Explanation.—For the purposes of this article, any operations incidental to the ordinary functions of the Government of a State, such as, the sale of the forest produce of any forest under the control of the Government of a State or of any article produced in any jail within a State, shall not be deemed to be a trade or business carried on by or on behalf of the Government of the State.	30
Adjustments in respect of certain expenses and pensions.	267. Where under the provisions of this Consti-tution the expenses of any court or Commission, or pensions payable to or in respect of a person who has served before the commencement of this Constitution under the Crown in India, are charged on the revenues of India or the revenues of a State for the time being specified in Part I of the First Schedule, then if—	35 40

	(a) in the case of a charge on the revenues of India, the court or Commission serves any of the separate needs of a State so specified, or the person has served wholly or in part in connection with the affairs of such a State; or	5
	(b) in the case of a charge on the revenues of a State so specified, the court or Commission serves any of the separate needs of the Union or another State so specified, or the person has served wholly or in part in connection with the affairs of the Union or another such State,	10
	there shall be charged on and paid out of the revenues of the State or, as the case may be, the revenues of India or of the other State, such contribution in respect of expenses or pensions as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India.	15 20

CHAPTER II—Borrowing

Borrowing
by the
Government
of India.

268. The executive power of the Union extends to borrowing upon the security of the revenues of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed. 25

Borrowing
by States.

269. (1) Subject to the provisions of this article, the executive power of a State for the time being specified in Part I of the First Schedule extends to borrowing within the territory of India upon the security of the revenues of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed. 30
35

(2) The Government of India may, subject to such conditions, if any, as it may think fit to impose, make loans to States for the time being specified in Part I

or Part III of the First Schedule or so long as any limits fixed under the last preceding article are not exceeded, give guarantees in respect of loans raised by any such State and any sums required for the purpose of making such loans shall be charged on the revenues of India. 5

(3) A State for the time being specified in Part I or Part III of the First Schedule may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or its predecessor Government or in respect of which a guarantee has been given by the Government of India or by its predecessor Government. 10

A consent under this clause may be granted subject to such conditions, if any, as the Government of India may think fit to impose. 15

CHAPTER III—Property, Contracts, Liabilities and Suits

Succession to assets and debts, rights and liabilities 270. As from the commencement of this Constitution, the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors' Provinces as regards all property, assets and liabilities subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab. 25 30

Property accruing by escheat or lapse or as bona vacantia 271. Subject as hereinafter provided, any property in the territory of India except the States for the time being specified in Part III of the First Schedule which, if this Constitution had not come into operation, would have accrued to His Majesty by escheat or lapse, or as bona vacantia for want of a rightful owner, shall, if it is property situate in a State for the time being specified in Part I of the First Schedule, vest in such State for the purposes of 35 40

the Government of that State, and shall, in any other case, vest in the Union for the purposes of the Government of India:

Provided that any property which at the date when it would have so accrued to His Majesty was in the possession or under the control of the Government of India or the Government of a State for the time being specified in Part I of the First Schedule shall, according as the purposes for which it was then used or held were purposes of the Union or of a State so specified, vest in the Union for the purposes of the Government of India or in the State for the purposes of the Government of that State.

Power to
acquire
property

272. (1) The executive power of the Union and of each State for the time being specified in Part I of the First Schedule shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State for the time being specified in Part I of the First Schedule shall vest in the Union or any such State, as the case may be.

Contracts.

273. (1) All contracts made in the exercise of the executive power of the Union or of a State for the time being specified in Part I of the First Schedule shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise.

(2) Neither the President, nor the Governor of a State, shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing such contract or assurance on behalf of any of them be personally liable in respect thereof.

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Suits and
proceedings.

274. (1) The Government of India may sue or be sued by the name of the Government of India and the Government of a State for the time being specified in Part I of the First Schedule may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or by the Legislature of such State, enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces might have sued or been sued if this Constitution had not been enacted. 5 10

(2) If at the date of commencement of this Constitution—

- (a) any legal proceedings are pending to which the Dominion of India is a party, the Government of India shall be deemed to be substituted for the Dominion in those proceedings; and 15
- (b) any legal proceedings are pending to which a Province is a Party, the corresponding State shall be deemed to be substituted for the Province in those proceedings. 20

PART XI

Emergency Provisions

Proclamation of Emer- gency.	275. (1) If the President is satisfied that a grave emergency exists whereby the security of India is threatened, whether by war or domestic violence, he may by proclamation, make a declaration to that effect.	5
	(2) A proclamation issued under clause (1) of this article (in this Constitution referred to as "a Proclamation of Emergency")—	10
	(a) may be revoked by a subsequent proclamation;	
	(b) shall be laid before each House of Parliament;	
	(c) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.	15
	(3) A Proclamation of Emergency declaring that the security of India is threatened by war or by domestic violence may be made before the actual occurrence of war or of any such violence if the President is satisfied that there is imminent danger thereof.	20
Effect of Proclamation of Emer- gency.	276. Where a Proclamation of Emergency is in operation, then, notwithstanding anything contained in this Constitution—	25
	(a) the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;	30
	(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India as respects that matter.	35 40

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Application of provisions relating to distribution of revenues during the period a Proclamation of Emergency is in operation. Provisions in case of failure of constitutional machinery in States in Part I of the First Schedule.

277. The President may, while a Proclamation of Emergency is in operation, by order, direct that all or any of the provisions of articles 249 to 259 of this Constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit. 5

278. (1) If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation— 10

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State; 15 20

(b) declare that the powers of the Legislature of the State shall be exercisable only by Parliament;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in that State: 25 30

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts. 35

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) A proclamation under this article—

(a) shall be laid before each House of Parliament; 40

- (b) except where it is a proclamation revoking a previous proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a proclamation is passed by both Houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years.

(4) Where by a proclamation issued under clause (1) of this article it has been declared that the powers of the Legislature of the State shall be exercisable only by Parliament, it shall be competent—

- (a) for Parliament to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Government of India or officers and authorities of the Government of India;

- (b) for the President to promulgate Ordinances under article 102 of this Constitution except when both Houses of Parliament are in session.

(5) Any law made by Parliament which Parliament would not but for the issue of a proclamation under this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the Legislature of the State.

Suspension
of provisions
during
emergencies,

279. While a Proclamation of Emergency is in operation, nothing in article 13 of Part III of this Constitution shall restrict the power of the State as defined in that Part to make any law or to take any executive action which the State would otherwise be competent to make or to take.

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Suspension
of the rights
guaranteed
by article
25 of this
Constitution
during
emergencies.

*280. Where a Proclamation of Emergency is in operation, the President may by order declare that the rights guaranteed by article 25 of this Constitution shall remain suspended for such period not extending beyond a period of six months after the proclamation has ceased to be in operation as may be specified in such order.

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* The Committee is of opinion that no provision should be made for suspension of the Fundamental Rights under article 13 or for suspension of the enforcement of such rights under article 25 where an emergency is declared by the Government of a State for the time being specified in Part III of the First Schedule as it will create unnecessary complications.

PART XII

Services under the Union and the States

CHAPTER I—*Services

- Inter-pretation. 281. 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
- Recruitment and conditions of service of persons serving the Union or a State. 282. (1) Subject to the provisions of clause (2) of this article, Acts of the appropriate Legislature may regulate the recruitment and the conditions of service of persons appointed to public services, and to posts in connection with the affairs, of the Union or any State. 10
- (2) No person who is a member of any civil service or holds any civil post in connection with the affairs of the Government of India or the Government of a State shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him: 15
- 20
- Provided that this clause shall not apply—
- (a) where a person is dismissed, removed, or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or 25
- (b) where an authority empowered to dismiss a person or remove him or reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause. 30
- Transitional provisions. 283. Until other provision is made in this behalf tinder this Constitution, any rules which were in force immediately before the commencement of this 35

* The Committee is of opinion that detailed provisions with regard to recruitment and conditions of service of persons in Defence services or serving the Union or a State in a civil capacity should not be included in the Constitution but should be left to be regulated by Acts of the appropriate Legislature.

Constitution and were applicable to any public service or any post which has continued to exist after the commencement of this Constitution as a service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution. 5

CHAPTER II—Public Service

Commissions

Public Service Com- 284. (1) Subject to the provisions of this article
missions for there shall be a Public Service Commission for the 10
the Union and a Public Service Commission for each
and for the State.
States.

- (2) Two or more States may agree—
- (a) that there shall be one Public Service Com- 15
mission for that group of States; or
 - (b) that the Public Service Commission for one
of the States shall serve the needs of all
the States;

and any such agreement may contain such incidental
and consequential provisions as may appear neces- 20
sary or desirable for giving effect to the purposes of
the agreement and shall, in the case of an agreement
that there shall be one Commission for a group of
States, specify by what Governor or Governors the
functions which are under this Part of this Constitu- 25
tion to be discharged by the Governor of a State are
to be discharged.

(3) The Public Service Commission for the Union
if requested so to do by the Governor of a State may,
with the approval of the President, agree to serve 30
all or any of the needs of the State.

(4) References in this Constitution to the Union
Public Service Commission or a State Public Service
Commission shall, unless the context otherwise
requires, be construed as references to the Commis- 35
sion serving the needs of the Union, or, as the case
may be, the State as respects the particular matter in
question.