प्राक्कथन

निर्वाचन विधि निर्देशिका के वर्तमान संस्करण में, जिसे द्विभाषी रूप में प्रकाशित किया जा रहा है, जिल्द 1 और जिल्द 2 हैं । अधिनियमों के अंग्रेजी पाठ और उनके प्राधिकृत हिन्दी पाठ 1 मार्च, 2004 तक संशोधित हैं ।

नई दिल्ली;
1 मार्च, 2004

टी. के. विश्वनाथन,
सचिव, भारत सरकार ।

PREFACE

The present edition of the Manual of Election Law, being published in diglot form, consists of Volumes I and II. The English text and the authoritative Hindi text of the Acts have been modified up to the 1st March, 2004.

NEW DELHI;
The 1st March, 2004.

T.K.VISWANATHAN,
Secretary to the Government of India.

निर्वाचन विधि निर्देशिका

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निर्वाचन विधि निर्देशिका

जिल्द 2

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8. जम्मू-कश्मीर राज्य में विधान सभा, स्थानीय प्राधिकरणों या पंचायतों के निर्वाचन-क्षेत्रों में निर्वाचनों के संबंध में प्रतीकों की सूची--यह सूची निर्वाचन आयोग द्वारा पृथक् रूप से प्रकाशित की जा रही है ।

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4. वे अधिकारी जिनके समक्ष दिल्ली की महानगर परिषद् में कोई स्थान भरने के लिए निर्वाचन के निमित्त कोई अभ्यर्थी शपथ लेगा या प्रतिज्ञान करेगा तथा उस पर हस्ताक्षर करेगा

परिशिष्ट - निर्वाचनों का संचालन (संशोधन) नियम, 2004

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संविधान से उद्धरण

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भाग 5

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राष्ट्रपति और उपराष्ट्रपति

52. भारत का राष्ट्रपति---भारत का एक राष्ट्रपति होगा ।

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54. राष्ट्रपति का निर्वाचन---राष्ट्रपति का निर्वाचन ऐसे निर्वाचकगण के सदस्य करेंगे जिसमें---

(क) संसद् के दोनों सदनों के निर्वाचित सदस्य, और

(ख) राज्यों की विधान सभाओं के निर्वाचित सदस्य,

होंगे ।

[1][**स्पष्टीकरण**---इस अनुच्छेद और अनुच्छेद 55 में "राज्य" के अंतर्गत दिल्ली राष्ट्रीय राजधानी राज्यक्षेत्र और पांडिचेरी संघ राज्यक्षेत्र हैं।]

55. राष्ट्रपति के निर्वाचन की रीति---(1) जहां तक साध्य हो, राष्ट्रपति के निर्वाचन में भिन्न-भिन्न राज्यों के प्रतिनिधित्व के मापमान में एकरूपता होगी ।

(2) राज्यों में आपस में ऐसी एकरूपता तथा समस्त राज्यों और संघ में समतुल्यता प्राप्त कराने के लिए संसद् और प्रत्येक राज्य की विधान सभा का प्रत्येक निर्वाचित सदस्य ऐसे निर्वाचन में जितने मत देने का हकदार है, उनकी संख्या निम्नलिखित रीति से अवधारित की जाएगी, अर्थात्:---

(क) किसी राज्य की विधान सभा के प्रत्येक निर्वाचित सदस्य के उतने मत होंगे जितने कि एक हजार के गुणित उस भागफल में हों जो राज्य की जनसंख्या को उस विधान सभा के निर्वाचित सदस्यों की कुल संख्या से भाग देने पर आए ;

(ख) यदि एक हजार के उक्त गुणितों को लेने के बाद शेष पांच सौ से कम नहीं है तो उपखंड (क) में निर्दिष्ट प्रत्येक सदस्य के मतों की संख्या में एक और जोड़ दिया जाएगा ;

(ग) संसद् के प्रत्येक सदन के प्रत्येक निर्वाचित सदस्य के मतों की संख्या वह होगी जो उपखंड (क) और उपखंड (ख) के अधीन राज्यों की विधान सभाओं के सदस्यों के लिए नियत कुल मतों की संख्या को, संसद् के दोनों सदनों के निर्वाचित सदस्यों की कुल संख्या से भाग देने पर आए जिसमें आधे से अधिक भिन्न को एक गिना जाएगा और अन्य भिन्नों की उपेक्षा की जाएगी ।

(3) राष्ट्रपति का निर्वाचन आनुपातिक प्रतिनिधित्व पद्धति के अनुसार एकल संक्रमणीय मत द्वारा होगा और ऐसे निर्वाचन में मतदान गुप्त होगा ।

[2][**स्पष्टीकरण**--इस अनुच्छेद में, "जनसंख्या" पद से ऐसी अंतिम पूर्ववर्ती जनगणना में अभिनिश्चित की गई जनसंख्या अभिप्रेत है जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं :

परंतु इस स्पष्टीकरण में अंतिम पूर्ववर्ती जनगणना के प्रति, जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं, निर्देश का, जब तक सन् [3][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं, यह अर्थ लगाया जाएगा कि वह 1971 की जनगणना के प्रति निर्देश है ।]

56. राष्ट्रपति की पदावधि---(1) राष्ट्रपति अपने पद ग्रहण की तारीख से पांच वर्ष की अवधि तक पद धारण करेगा :

परंतु----

(क) राष्ट्रपति, उपराष्ट्रपति को संबोधित अपने हस्ताक्षर सहित लेख द्वारा अपना पद त्याग सकेगा ;

(ख) संविधान का अतिक्रमण करने पर राष्ट्रपति को अनुच्छेद 61 में उपबंधित रीति से चलाए गए महाभियोग द्वारा पद से हटाया जा सकेगा ;

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[1] संविधान (सत्तरवां संशोधन) अधिनियम, 1992 की धारा 2 द्वारा (1-6-1995 से) अंतःस्थापित ।

[2] संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 12 द्वारा (3-1-1977से) स्पष्टीकरण के स्थान पर प्रतिस्थापित ।

[3] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 2 द्वारा "2000" के स्थान पर प्रतिस्थापित ।

PART I
EXTRACTS FROM THE CONSTITUTION

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PART V
THE UNION
CHAPTER I.—THE EXECUTIVE

The President and Vice-President

52. The President of India.—There shall be a President of India.

* * * * *

54. Election of President.—The President shall be elected by the members of an electoral college consisting of—

(*a*) the elected members of both Houses of Parliament; and
(*b*) the elected members of the Legislative Assemblies of the States.

[1][*Explanation*.—In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union territory of Pondicherry.]

55. Manner of election of President.—(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(*a*) every elected member of the legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(*b*) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (*a*) shall be further increased by one;

(*c*) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (*a*) and (*b*) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(*3*) The election of the President shall be held 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.

[2][*Explanation*.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year [3][2026] have been published, be construed as a reference to the 1971 census.]

56. Term of office of President.—(1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(*a*) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(*b*) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61;

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1. Ins. by the Constitution (Seventieth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1995).
2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 12, for the *Explanation* (w.e.f. 3-1-1977).
3. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 2, for '2000".

(ग) राष्ट्रपति, अपने पद की अवधि समाप्त हो जाने पर भी, तब तक पद धारण करता रहेगा जब तक उसका उत्तराधिकारी अपना पद ग्रहण नहीं कर लेता है ।

(2) खंड (1) के परंतुक के खंड (क) के अधीन उपराष्ट्रपति को संबोधित त्यागपत्र की सूचना उसके द्वारा लोक सभा के अध्यक्ष को तुरंत दी जाएगी ।

57. पुनर्निर्वाचन के लिए पात्रता---कोई व्यक्ति, जो राष्ट्रपति के रूप में पद धारण करता है या कर चुका है, इस संविधान के अन्य उपबंधों के अधीन रहते हुए, उस पद के लिए पुनर्निर्वाचन का पात्र होगा ।

58. राष्ट्रपति निर्वाचित होने के लिए अर्हताएं---(1) कोई व्यक्ति राष्ट्रपति निर्वाचित होने का पात्र तभी होगा जब वह--

(क) भारत का नागरिक है ;

(ख) पैंतीस वर्ष की आयु पूरी कर चुका है ; और

(ग) लोक सभा का सदस्य निर्वाचित होने के लिए अर्हित है ।

(2) कोई व्यक्ति, जो भारत सरकार के या किसी राज्य की सरकार के अधीन अथवा उक्त सरकारों में से किसी के नियंत्रण में किसी स्थानीय या अन्य प्राधिकारी के अधीन कोई लाभ का पद धारण करता है, राष्ट्रपति निर्वाचित होने का पात्र नहीं होगा ।

स्पष्टीकरण---इस अनुच्छेद के प्रयोजनों के लिए, कोई व्यक्ति केवल इस कारण कोई लाभ का पद धारण करने वाला नहीं समझा जाएगा कि वह संघ का राष्ट्रपति या उपराष्ट्रपति या किसी राज्य का राज्यपाल [4]*** है अथवा संघ का या किसी राज्य का मंत्री है ।

59. राष्ट्रपति के पद के लिए शर्तें---(1) राष्ट्रपति संसद् के किसी सदन का या किसी राज्य के विधान-मंडल के किसी सदन का सदस्य नहीं होगा और यदि संसद् के किसी सदन का या किसी राज्य के विधान-मंडल के किसी सदन का कोई सदस्य राष्ट्रपति निर्वाचित हो जाता है तो यह समझा जाएगा कि उसने उस सदन में अपना स्थान राष्ट्रपति के रूप में अपने पद ग्रहण की तारीख से रिक्त कर दिया है ।

*   *   *   *   *   *

62. राष्ट्रपति के पद में रिक्ति को भरने के लिए निर्वाचन करने का समय और आकस्मिक रिक्ति को भरने के लिए निर्वाचित व्यक्ति की पदावधि---(1) राष्ट्रपति की पदावधि की समाप्ति से हुई रिक्ति को भरने के लिए निर्वाचन, पदावधि की समाप्ति से पहले ही पूर्ण कर लिया जाएगा ।

(2) राष्ट्रपति की मृत्यु, पदत्याग या पद से हटाए जाने या अन्य कारण से हुई उसके पद में रिक्ति को भरने के लिए निर्वाचन, रिक्ति होने की तारीख के पश्चात् यथाशीघ्र और प्रत्येक दशा में छह मास बीतने से पहले किया जाएगा और रिक्ति को भरने के लिए निर्वाचित व्यक्ति, अनुच्छेद 56 के उपबंधों के अधीन रहते हुए, अपने पद ग्रहण की तारीख से पांच वर्ष की पूरी अवधि तक पद धारण करने का हकदार होगा ।

63. भारत का उपराष्ट्रपति----भारत का एक उपराष्ट्रपति होगा ।

64. उपराष्ट्रपति का राज्य सभा का पदेन सभापति होना---उपराष्ट्रपति, राज्य सभा का पदेन सभापति होगा और अन्य कोई लाभ का पद धारण नहीं करेगा :

परंतु जिस किसी अवधि के दौरान उपराष्ट्रपति, अनुच्छेद 65 के अधीन राष्ट्रपति के रूप में कार्य करता है या राष्ट्रपति के कृत्यों का निर्वहन करता है, उस अवधि के दौरान वह राज्य सभा के सभापति के पद के कर्तव्यों का पालन नहीं करेगा और वह अनुच्छेद 97 के अधीन राज्य सभा के सभापति को संदेय वेतन या भत्ते का हकदार नहीं होगा ।

*   *   *   *   *

[4] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "या राजप्रमुख या उपराजप्रमुख" शब्दों का लोप किया गया।

(*c*) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (*a*) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

57. Eligibility for re-election.—A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

58. Qualifications for election as President.—(1) No person shall be eligible for election as President unless he—

(*a*) is a citizen of India,

(*b*) has completed the age of thirty-five years, and

(*c*) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor [1]*** of any State or is a Minister either for the Union or for any State.

59. Conditions of President's office.—(*1*) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

* * * * *

62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.—(*1*) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

63. The Vice-President of India.—There shall be a Vice-President of India.

64. The Vice-President to be *ex officio* Chairman of the Council of States.—The Vice-President shall be *ex officio* Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

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1. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

66. उपराष्ट्रपति का निर्वाचन---(1) उपराष्ट्रपति का निर्वाचन [5][संसद् के दोनों सदनों के सदस्यों से मिलकर बनने वाले निर्वाचकगण के सदस्यों] द्वारा आनुपातिक प्रतिनिधित्व पद्धति के अनुसार एकल संक्रमणीय मत द्वारा होगा और ऐसे निर्वाचन में मतदान गुप्त होगा ।

(2) उपराष्ट्रपति संसद् के किसी सदन का या किसी राज्य के विधान-मंडल के किसी सदन का सदस्य नहीं होगा और यदि संसद् के किसी सदन का या किसी राज्य के विधान-मंडल के किसी सदन का कोई सदस्य उपराष्ट्रपति निर्वाचित हो जाता है तो यह समझा जाएगा कि उसने उस सदन में अपना स्थान उपराष्ट्रपति के रूप में अपने पद ग्रहण की तारीख से रिक्त कर दिया है ।

(3) कोई व्यक्ति उपराष्ट्रपति निर्वाचित होने का पात्र तभी होगा जब वह---

(क) भारत का नागरिक है ;

(ख) पैंतीस वर्ष की आयु पूरी कर चुका है ; और

(ग) राज्य सभा का सदस्य निर्वाचित होने के लिए अर्हित है ।

(4) कोई व्यक्ति जो भारत सरकार के या किसी राज्य की सरकार के अधीन अथवा उक्त सरकारों में से किसी के नियंत्रण में किसी स्थानीय या अन्य प्राधिकारी के अधीन कोई लाभ का पद धारण करता है, उपराष्ट्रपति निर्वाचित होने का पात्र नहीं होगा ।

स्पष्टीकरण---इस अनुच्छेद के प्रयोजनों के लिए, कोई व्यक्ति केवल इस कारण कोई लाभ का पद धारण करने वाला नहीं समझा जाएगा कि वह संघ का राष्ट्रपति या उपराष्ट्रपति या किसी राज्य का राज्यपाल [6]*** है अथवा संघ का या किसी राज्य का मंत्री है।

67. उपराष्ट्रपति की पदावधि ---उपराष्ट्रपति अपने पद ग्रहण की तारीख से पांच वर्ष की अवधि तक पद धारण करेगा :

परंतु---

(क) उपराष्ट्रपति, राष्ट्रपति को संबोधित अपने हस्ताक्षर सहित लेख द्वारा अपना पद त्याग सकेगा ;

(ख) उपराष्ट्रपति, राज्य सभा के ऐसे संकल्प द्वारा अपने पद से हटाया जा सकेगा जिसे राज्य सभा के तत्कालीन समस्त सदस्यों के बहुमत ने पारित किया है और जिससे लोक सभा सहमत है ; किंतु इस खंड के प्रयोजन के लिए कोई संकल्प तब तक प्रस्तावित नहीं किया जाएगा जब तक कि उस संकल्प को प्रस्तावित करने के आशय की कम से कम चौदह दिन की सूचना न दे दी गई हो ;

(ग) उपराष्ट्रपति, अपने पद की अवधि समाप्त हो जाने पर भी तब तक पद धारण करता रहेगा जब तक उसका उत्तराधिकारी अपना पद ग्रहण नहीं कर लेता है ।

68. उपराष्ट्रपति के पद में रिक्ति को भरने के लिए निर्वाचन करने का समय और आकस्मिक रिक्ति को भरने के लिए निर्वाचित व्यक्ति की पदावधि---(1) उपराष्ट्रपति की पदावधि की समाप्ति से हुई रिक्ति को भरने के लिए निर्वाचन, पदावधि की समाप्ति से पहले ही पूर्ण कर लिया जाएगा ।

(2) उपराष्ट्रपति की मृत्यु, पदत्याग या पद से हटाए जाने या अन्य कारण से हुई उसके पद में रिक्ति को भरने के लिए निर्वाचन, रिक्ति होने के पश्चात् यथाशीघ्र किया जाएगा और रिक्ति को भरने के लिए निर्वाचित व्यक्ति, अनुच्छेद 67 के उपबंधों के अधीन रहते हुए, अपने पद ग्रहण की तारीख से पांच वर्ष की पूरी अवधि तक पद धारण करने का हकदार होगा ।

* * * * *

[7][**71. राष्ट्रपति या उपराष्ट्रपति के निर्वाचन से संबंधित या संसक्त विषय**---(1) राष्ट्रपति या उपराष्ट्रपति के निर्वाचन से उत्पन्न या संसक्त सभी शंकाओं और विवादों की जांच और विनिश्चय उच्चतम न्यायालय द्वारा किया जाएगा और उसका विनिश्चय अंतिम होगा ।

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[5] संविधान (ग्यारहवां संशोधन) अधिनियम, 1961 की धारा 2 द्वारा "संयुक्त अधिवेशन में समवेत् संसद् के दोनों सदनों के सदस्यों" के स्थान पर प्रतिस्थापित ।

[6] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "या राजप्रमुख या उपराजप्रमुख" शब्दों का लोप किया गया ।

[7] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 10 द्वारा (20-6-1979 से) अनुच्छेद 71 के स्थान पर प्रतिस्थापित ।

66. Election of Vice-President.—(*1*) The Vice-President shall be elected by the [1][members of an electoral college consisting of the members of both Houses of Parliament] 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.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he—

(*a*) is a citizen of India;

(*b*) has completed the age of thirty-five years; and

(*c*) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor [2]*** of any State or is a Minister either for the Union or for any State.

67. Term of office of Vice-President.—The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(*a*) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(*b*) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(*c*) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

68. Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.— (1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President 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 to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

* * * * *

[3][**71. Matters relating to, or connected with, the election of a President or Vice-President**.—(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

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1. Subs. by the Constitution (Eleventh Amendment) Act, 1961, s. 2, for "members of both Houses of Parliament assembled at a joint meeting".
2. The words "or Rajpramukh or Uparajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.
3. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 10, for article 71 (w.e.f. 20-6-1979).

(2) यदि उच्चतम न्यायालय द्वारा किसी व्यक्ति के राष्ट्रपति या उपराष्ट्रपति के रूप में निर्वाचन को शून्य घोषित कर दिया जाता है तो उसके द्वारा, यथास्थिति, राष्ट्रपति या उपराष्ट्रपति के पद की शक्तियों के प्रयोग और कर्तव्यों के पालन में उच्चतम न्यायालय के विनिश्चय की तारीख को या उससे पहले किए गए कार्य उस घोषणा के कारण अविधिमान्य नहीं होंगे ।

(3) इस संविधान के उपबंधों के अधीन रहते हुए, राष्ट्रपति या उपराष्ट्रपति के निर्वाचन से संबंधित या संसक्त किसी विषय का विनियमन संसद्[8] विधि द्वारा कर सकेगी ।

(4) राष्ट्रपति या उपराष्ट्रपति के रूप में किसी व्यक्ति के निर्वाचन को उसे निर्वाचित करने वाले निर्वाचकगण के सदस्यों में किसी भी कारण से विद्यमान किसी रिक्ति के आधार पर प्रश्नगत नहीं किया जाएगा ।]

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75. मंत्रियों के बारे में अन्य उपबंध--(1)   *   *   *

[9][(1क.) मंत्री परिषद् में प्रधान मंत्री सहित मंत्रियों की कुल संख्या लोक सभा के सदस्यों की कुल संख्या के पन्द्रह प्रतिशत से अधिक नहीं होगी ।

(1ख) किसी राजनीतिक दल का संसद् के किसी सदन का कोई सदस्य, जो दसवीं अनुसूची के पैरा 2 के अधीन उस सदन का सदस्य होने के लिए निरर्हित है, अपनी निरर्हता की तारीख से प्रारंभ होने वाली और उस तारीख तक जिसको ऐसे सदस्य के रूप में उसकी पदावधि समाप्त होगी या जहां वह ऐसी अवधि की समाप्ति के पूर्व संसद् के किसी सदन के लिए निर्वाचन लड़ता है, उस तारीख तक जिसको वह निर्वाचित घोषित किया जाता है, इनमें से जो भी पूर्वतर हो, की अवधि के दौरान, खंड (1) के अधीन मंत्री के रूप में नियुक्त किए जाने के लिए भी निरर्हित होगा ।]

*   *   *   *   *

अध्याय 2---संसद्

साधारण

79. संसद् का गठन---संघ के लिए एक संसद् होगी जो राष्ट्रपति और दो सदनों से मिल कर बनेगी जिनके नाम राज्य सभा और लोक सभा होंगे ।

80. राज्य सभा की संरचना---(1) [10][[11]*** राज्य सभा] ---

(क) राष्ट्रपति द्वारा खंड (3) के उपबंधों के अनुसार नामनिर्देशित किए जाने वाले बारह सदस्यों, और

(ख) राज्यों के [12][और संघ राज्यक्षेत्रों के] दो सौ अड़तीस से अनधिक प्रतिनिधियों,

से मिलकर बनेगी ।

(2) राज्य सभा में राज्यों के [5][और संघ राज्यक्षेत्रों के] प्रतिनिधियों द्वारा भरे जाने वाले स्थानों का आबंटन चौथी अनुसूची में इस निमित्त अंतर्विष्ट उपबंधों के अनुसार होगा ।

(3) राष्ट्रपति द्वारा खंड (1) के उपखंड (क) के अधीन नामनिर्देशित किए जाने वाले सदस्य ऐसे व्यक्ति होंगे जिन्हें निम्नलिखित विषयों के संबंध में विशेष ज्ञान या व्यावहारिक अनुभव है, अर्थात् :---

साहित्य, विज्ञान, कला और समाज सेवा ।

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[8] राष्ट्रपतीय और उपराष्ट्रपतीय निर्वाचन अधिनियम, 1952 (1952 का 31) देखिए ।

[9] संविधान (इक्यानवेवां संशोधन) अधिनियम, 2003 की धारा 2 द्वारा (1-1-2004 से) अंतःस्थापित ।

[10] संविधान (पैंतीसवां संशोधन) अधिनियम, 1974 की धारा 3 द्वारा (1-3-1975 से) "राज्य सभा" के स्थान पर प्रतिस्थापित ।

[11] संविधान (छत्तीसवां संशोधन) अधिनियम, 1975 की धारा 5 द्वारा (26-4-1975 से) "दसवीं अनुसूची के पैरा 4 के उपबंधों के अधीन रहते हुए" शब्दों का लोप किया गया ।

[12] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 3 द्वारा (1-11-1956 से) जोड़ा गया ।

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law[1] regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.]

* * * * *

75. Other provisions as to Ministers.—(*1*) * * * * *

[2][(1A) The total number of Ministers, including the Prime Minister, in the Council of ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualified till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

CHAPTER II.—PARLIAMENT

GENERAL

79. Constitution of Parliament.—There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

80. Composition of the Council of States.—(1) [3][[4]*** The Council of States] shall consist of—

(*a*) twelve members to be nominated by the President in accordance with the provisions of clause (*3*); and

(*b*) not more than two hundred and thirty-eight representatives of the States [5][and of the Union territories].

(2) The allocation of seats in the Council of States to be filled by representatives of the States [5][and of the Union territories] shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (*a*) of clause (*1*) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:--

Literature, science, art and social service.

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1. *See* the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952).
2. Ins. by the Constitution (Ninety-first Amendment) Act, 2003, s. 2 (w.e.f. 1-1-2004).
3. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 3, for "The Council of States" (w.e.f. 1-3-1975).
4. The words "Subject to the provisions of paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).
5. Added by the Constitution (Seventh Amendment) Act, 1956, s. 3 (w.e.f. 1-11-1956).

(4) राज्य सभा में प्रत्येक [13]*** राज्य के प्रतिनिधियों का निर्वाचन उस राज्य की विधान सभा के निर्वाचित सदस्यों द्वारा आनुपातिक प्रतिनिधित्व पद्धति के अनुसार एकल संक्रमणीय मत द्वारा किया जाएगा ।

(5) राज्य सभा में [14][संघ राज्यक्षेत्रों] के प्रतिनिधि ऐसी रीति से चुने जाएंगे जो संसद् विधि द्वारा विहित करे ।

[15]**[81. लोक सभा की संरचना**---(1) [16][अनुच्छेद 331 के उपबंधों के अधीन रहते हुए [17]***] लोक सभा---

(क) राज्यों में प्रादेशिक निर्वाचन-क्षेत्रों से प्रत्यक्ष निर्वाचन द्वारा चुने हुए [18][पांच सौ तीस] से अनधिक [11][सदस्यों], और

(ख) संघ राज्यक्षेत्रों का प्रतिनिधित्व करने के लिए ऐसी रीति से, जो संसद् विधि द्वारा उपबंधित करे, चुने हुए [19][बीस] से अनधिक [सदस्यों] ,

से मिलकर बनेगी ।

(2) खंड (1) के उपखंड (क) के प्रयोजनों के लिए,---

(क) प्रत्येक राज्य को लोक सभा में स्थानों का आबंटन ऐसी रीति से किया जाएगा कि स्थानों की संख्या से उस राज्य की जनसंख्या का अनुपात सभी राज्यों के लिए यथासाध्य एक ही हो, और

(ख) प्रत्येक राज्य को प्रादेशिक निर्वाचन-क्षेत्रों में ऐसी रीति से विभाजित किया जाएगा कि प्रत्येक निर्वाचन-क्षेत्र की जनसंख्या का उसको आबंटित स्थानों की संख्या से अनुपात समस्त राज्य में यथासाध्य एक ही हो :

[20][परंतु इस खंड के उपखंड (क) के उपबंध किसी राज्य को लोक सभा में स्थानों के आबंटन के प्रयोजन के लिए तब तक लागू नहीं होंगे जब तक उस राज्य की जनसंख्या साठ लाख से अधिक नहीं हो जाती है ।]

(3) इस अनुच्छेद में, "जनसंख्या" पद से ऐसी अंतिम पूर्ववर्ती जनगणना में अभिनिश्चित की गई जनसंख्या अभिप्रेत है जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं :

[21][परंतु इस खंड में अंतिम पूर्ववर्ती जनगणना के प्रति, जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं, निर्देश का, जब तक सन् [22][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं, [23][यह अर्थ लगाया जाएगा कि वह--

(i) खंड (2) के उपखंड (क) और उस खंड के परंतुक के प्रयोजनों के लिए, 1971 की जनगणना के प्रति निर्देश है ; और

(ii) खंड (2) के उपखंड (ख) के प्रयोजनों के लिए, [24][2001] की जनगणना के प्रति निर्देश है ।]

82. प्रत्येक जनगणना के पश्चात् पुनःसमायोजन---प्रत्येक जनगणना की समाप्ति पर राज्यों को लोक सभा में स्थानों के आबंटन और प्रत्येक राज्य के प्रादेशिक निर्वाचन-क्षेत्रों में विभाजन का ऐसे प्राधिकारी द्वारा और ऐसी रीति से पुनःसमायोजन किया जाएगा जो संसद् विधि द्वारा अवधारित करे :

परंतु ऐसे पुनःसमायोजन से लोक सभा में प्रतिनिधित्व पर तब तक कोई प्रभाव नहीं पड़ेगा जब तक उस समय विद्यमान लोक सभा का विघटन नहीं हो जाता है :

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[13] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 3 द्वारा "पहली अनुसूची में भाग क या भाग ख में विनिर्दिष्ट" शब्दों और अक्षरों का लोप किया गया ।

[14] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 3 द्वारा "पहली अनुसूची के भाग ग में विनिर्दिष्ट राज्यों" के स्थान पर प्रतिस्थापित ।

[15] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 4 द्वारा अनुच्छेद 81 और 82 के स्थान पर प्रतिस्थापित ।

[16] संविधान (पैंतीसवां संशोधन) अधिनियम, 1974 की धारा 4 द्वारा (1-3-1975 से) "अनुच्छेद 331 के उपबंधों के अधीन रहते हुए" के स्थान पर प्रतिस्थापित ।

[17] संविधान (छत्तीसवां संशोधन) अधिनियम, 1975 की धारा 5 द्वारा (26-4-1975 से) "और दसवीं अनुसूची के पैरा 4" शब्दों और अंक का लोप किया गया।

[18] गोवा, दमण और दीव पुनर्गठन अधिनियम, 1987 (1987 का 18) की धारा 63 द्वारा (30-5-1987 से) "पांच सौ पच्चीस" के स्थान प्रतिस्थापित ।

[19] संविधान (इकतीसवां संशोधन) अधिनियम, 1973 की धारा 2 द्वारा "पच्चीस सदस्यों" के स्थान पर प्रतिस्थापित ।

[20] संविधान (इकतीसवां संशोधन) अधिनियम, 1973 की धारा 2 द्वारा अंतःस्थापित ।

[21] संविधान (बयालीसवां संशोधन) अधिनियम,1976 की धारा 15 द्वारा (3-1-1977 से) अंतःस्थापित ।

[22] .संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 3 द्वारा "2000" के स्थान पर प्रतिस्थापित ।

[23] संविधान (चौरासीवां संशोधन) अधिनियम, 2000 की धारा 3 द्वारा कुछ शब्दों के स्थान पर प्रतिस्थापित ।

[24] .संविधान (सतासीवां संशोधन) अधिनियम, 2003 की धारा 2 द्वारा "1991" के स्थान पर प्रतिस्थापित ।

(4) The representatives of each State [1]*** in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the [2][Union territories] in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

[3][**81. Composition of the House of the People**.—(1) [4][Subject to the provisions of article 331 [5]***], the House of the People shall consist of—

(*a*) not more than [6][five hundred and thirty members] chosen by direct election from territorial constituencies in the States, and

(*b*) not more than [7][twenty members] to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (*a*) of clause (1), —

(*a*) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(*b*) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

[8][Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.]

(3) In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

[9][Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year [10][2026] have been published, [11][be construed, —

(*i*) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and
(ii) for the purpose of sub-clause (b) of clause (2) as a reference to the [12][2001] census.]]

82. Readjustment after each census.—Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:]

[13][Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

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1. The words "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 3.
2. Subs. by s. 3, *ibid*., for "States specified in Part C of the First Schedule".
3. Subs. by s. 4, *ibid*., for articles 81 and 82.
4. Subs. by the Constitution (Thirty-fifth Amendment) Act, 1974, s. 4, for "Subject to the provisions of article 331" (w.e.f. 1-3-1975).
5. The words "and paragraph 4 of the Tenth Schedule" omitted by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f. 26-4-1975).
6. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 63, for "five hundred and twenty-five members" (w.e.f. 30-5-1987).
7. Subs. by the Constitution (Thirty-first Amendment) Act, 1973, s. 2, for "twenty-five members".
8. Ins. by s. 2, *ibid*.
9. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 15 (w.e.f. 3-1-1977).
10. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 3, for "2000".
11. Subs. by s.3, *ibid.*, for certain words.
12. Subs. by s.4, *ibid.*, for certain words.
13. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 16 (w.e.f. 3-1-1977).

[25][परंतु यह और कि ऐसा पुनःसमायोजन उस तारीख से प्रभावी होगा जो राष्ट्रपति आदेश द्वारा विनिर्दिष्ट करे और ऐसे पुनःसमायोजन के प्रभावी होने तक लोक सभा के लिए कोई निर्वाचन उन प्रादेशिक निर्वाचन-क्षेत्रों के आधार पर हो सकेगा जो ऐसे पुनःसमायोजन के पहले विद्यमान हैं :

परंतु यह और भी कि जब तक सन् [26][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं तब तक [27][इस अनुच्छेद के अधीन,--

(i) राज्यों को लोक सभा में 1971 की जनगणना के आधार पर पुनः समायोजित स्थानों के आबंटन का ; और

(ii) प्रत्येक राज्य के प्रादेशिक निर्वाचन-क्षेत्रों में विभाजन का, जो [28][2001] की जनगणना के आधार पर पुनः समायोजित किए जाएं, पुनःसमायोजन आवश्यक नहीं होगा ।]]

83. संसद् के सदनों की अवधि---(1) राज्य सभा का विघटन नहीं होगा, किंतु उसके सदस्यों में से यथा संभव निकटतम एक-तिहाई सदस्य, संसद् द्वारा विधि द्वारा इस निमित्त किए गए, उपबंधों के अनुसार, प्रत्येक द्वितीय वर्ष की समाप्ति पर यथाशक्य शीघ्र निवृत्त हो जाएंगे ।

(2) लोक सभा, यदि पहले ही विघटित नहीं कर दी जाती है तो, अपने प्रथम अधिवेशन के लिए नियत तारीख से [29][पांच वर्ष] तक बनी रहेगी, इससे अधिक नहीं और [4][पांच वर्ष] की उक्त अवधि की समाप्ति का परिणाम लोक सभा का विघटन होगा :

परंतु उक्त अवधि को, जब आपात की घोषणा प्रवर्तन में है, तब, संसद् विधि द्वारा, ऐसी अवधि के लिए बढ़ा सकेगी, जो एक बार में एक वर्ष से अधिक नहीं होगी और उद्घोषणा के प्रवर्तन में न रह जाने के पश्चात् उसका विस्तार किसी भी दशा में छह मास की अवधि से अधिक नहीं होगा ।

84. संसद् की सदस्यता के लिए अर्हता---कोई व्यक्ति संसद् के किसी स्थान को भरने के लिए चुने जाने के लिए अर्हित तभी होगा जब--

[30][(क) वह भारत का नागरिक है और निर्वाचन आयोग द्वारा इस निमित्त प्राधिकृत किसी व्यक्ति के समक्ष तीसरी अनुसूची में इस प्रयोजन के लिए दिए गए प्ररूप के अनुसार शपथ लेता है या प्रतिज्ञान करता है और उस पर अपने हस्ताक्षर करता है ;]

(ख) वह राज्य सभा में स्थान के लिए कम से कम तीस वर्ष की आयु का और लोक सभा में स्थान के लिए कम से कम पच्चीस वर्ष की आयु का है ; और

(ग) उसके पास ऐसी अन्य अर्हताएं हैं जो संसद् द्वारा बनाई गई किसी विधि[31] द्वारा या उसके अधीन इस निमित्त विहित की जाएं ।

[32][**85. संसद् के सत्र, सत्रावसान और विघटन**--- (1) राष्ट्रपति समय-समय पर, संसद् के प्रत्येक सदन को ऐसे समय और स्थान पर, जो वह ठीक समझे, अधिवेशन के लिए आहूत करेगा, किंतु उसके एक सत्र की अंतिम बैठक और आगामी सत्र की प्रथम बैठक के लिए नियत तारीख के बीच छह मास का अंतर नहीं होगा ।

(2) राष्ट्रपति, समय-समय पर---

(क) सदनों का या किसी सदन का सत्रावसान कर सकेगा ;

(ख) लोक सभा का विघटन कर सकेगा ।]

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[25] संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 16 द्वारा (3-1-1977 से) अंतःस्थापित ।

[26] संविधान (बयालीसवां संशोधन) अधिनियम,1976 की धारा 16 द्वारा (3-1-1977 से) अंतःस्थापित ।

[27] संविधान (चौरासीवां संशोधन) अधिनियम, 2000 की धारा 4 द्वारा कुछ शब्दों के स्थान पर प्रतिस्थापित ।

[28] संविधान (सतासीवां संशोधन) अधिनियम, 2003 की धारा 3 द्वारा "1991" के स्थान पर प्रतिस्थापित ।

[29] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 13 द्वारा (20-6-1979 से) "छह वर्ष" के स्थान पर प्रतिस्थापित ।

[30] संविधान (सोलहवां संशोधन) अधिनियम, 1963 की धारा 3 द्वारा खंड (क) के स्थान पर प्रतिस्थापित ।

[31] लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धाराएं 3 और 4 आगे भाग 2 में देखिए ।

[32] संविधान (पहला संशोधन) अधिनियम, 1951 की धारा 6 द्वारा अनुच्छेद 85 के स्थान पर प्रतिस्थापित ।

Provided also that until the relevant figures for the first census taken after the year [1][2026] have been published, it shall not be necessary to [2][readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the [3][2001] census,

under this article.]]

83. Duration of Houses of Parliament.—(*1*) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for [4][five years] from the date appointed for its first meeting and no longer and the expiration of the said period of [4][five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

84. Qualification for membership of Parliament.—A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

[5][(*a*) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(*b*) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law[6] made by Parliament.

[7][**85. Sessions of Parliament, prorogation and dissolution.**—(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(*a*) prorogue the Houses or either House;

(*b*) dissolve the House of the People.]

* * * * *

1. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 4, for "2000".
2. Subs. by s. 4, *ibid.*, for certain words.
3. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 3, for "1991".
4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 13, for "six years" (w.e.f.20-6-1979).
5. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3, for cl. (a) (w.e.f. 1-11-1956).
6. *See* the Representation of the People Act, 1951 (3 of 1951), ss. 3 and 4, in Part II, *infra*.
7. Subs. by the Constitution (First Amendment) Act, 1951, s. 6, for article 85.

कार्य संचालन

99. सदस्यों द्वारा शपथ या प्रतिज्ञान---संसद् के प्रत्येक सदन का प्रत्येक सदस्य अपना स्थान ग्रहण करने से पहले, राष्ट्रपति या उसके द्वारा इस निमित्त नियुक्त व्यक्ति के समक्ष, तीसरी अनुसूची में इस प्रयोजन के लिए दिए गए प्ररूप के अनुसार, शपथ लेगा या प्रतिज्ञान करेगा और उस पर अपने हस्ताक्षर करेगा ।

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सदस्यों की निरर्हताएं

101. स्थानों का रिक्त होना---(1) कोई व्यक्ति संसद् के दोनों सदनों का सदस्य नहीं होगा और जो व्यक्ति दोनों सदनों का सदस्य चुन लिया जाता है उसके एक या दूसरे सदन के स्थान को रिक्त करने के लिए संसद् विधि द्वारा उपबंध करेगी ।

(2) कोई व्यक्ति संसद् और किसी [33]*** राज्य के विधान-मंडल के किसी सदन, दोनों का सदस्य नहीं होगा और यदि कोई व्यक्ति संसद् और [34][किसी राज्य] के विधान-मंडल के किसी सदन, दोनों का सदस्य चुन लिया जाता है तो ऐसी अवधि की समाप्ति के पश्चात्, जो राष्ट्रपति द्वारा बनाए गए नियमों[35] में विनिर्दिष्ट की जाए, संसद् में ऐसे व्यक्ति का स्थान रिक्त हो जाएगा यदि उसने राज्य के विधान-मंडल में अपने स्थान को पहले ही नहीं त्याग दिया है ।

(3) यदि संसद् के किसी सदन का सदस्य---

(क) [36][अनुच्छेद 102 के खंड (1) या खंड (2)] में वर्णित किसी निरर्हता से ग्रस्त हो जाता है, या

[37][(ख) यथास्थिति, सभापति या अध्यक्ष को संबोधित अपने हस्ताक्षर सहित लेख द्वारा अपने स्थान का त्याग कर देता है और उसका त्यागपत्र, यथास्थिति, सभापति या अध्यक्ष द्वारा स्वीकार कर लिया जाता है,]

तो ऐसा होने पर उसका स्थान रिक्त हो जाएगा :

[38][परंतु उपखंड (ख) में निर्दिष्ट त्यागपत्र की दशा में, यदि प्राप्त जानकारी से या अन्यथा और ऐसी जांच करने के पश्चात्, जो वह ठीक समझे, यथास्थिति, सभापति या अध्यक्ष का यह समाधान हो जाता है कि ऐसा त्यागपत्र स्वैच्छिक या असली नहीं है तो वह ऐसे त्यागपत्र को स्वीकार नहीं करेगा ।]

(4) यदि संसद् के किसी सदन का कोई सदस्य साठ दिन की अवधि तक सदन की अनुज्ञा के बिना उसके सभी अधिवेशनों से अनुपस्थित रहता है तो सदन उसके स्थान को रिक्त घोषित कर सकेगा :

परंतु साठ दिन की उक्त अवधि की संगणना करने में किसी ऐसी अवधि को हिसाब में नहीं लिया जाएगा जिसके दौरान सदन सत्रावसित या निरंतर चार से अधिक दिनों के लिए स्थगित रहता है ।

102. सदस्यता के लिए निरर्हताएं---(1) कोई व्यक्ति संसद् के किसी सदन का सदस्य चुने जाने के लिए और सदस्य होने के लिए निरर्हित होगा---

(क) यदि वह भारत सरकार के या किसी राज्य की सरकार के अधीन, ऐसे पद को छोड़कर, जिसको धारण करने वाले का निरर्हित न होना संसद् ने [39]विधि द्वारा घोषित किया है, कोई लाभ का पद धारण करता है ;

(ख) यदि वह विकृतचित्त है और सक्षम न्यायालय की ऐसी घोषणा विद्यमान है ;

(ग) यदि वह अनुन्मोचित दिवालिया है ;

(घ) यदि वह भारत का नागरिक नहीं है या उसने किसी विदेशी राज्य की नागरिकता स्वेच्छा से अर्जित कर ली है या वह किसी विदेशी राज्य के प्रति निष्ठा या अनुषक्ति को अभिस्वीकार किए हुए है ;

(ङ) यदि वह संसद् द्वारा बनाई गई किसी [40]विधि द्वारा या उसके अधीन इस प्रकार निरर्हित कर दिया जाता है ।

[41][**स्पष्टीकरण**---इस खंड के प्रयोजनों के लिए,] कोई व्यक्ति केवल इस कारण भारत सरकार के या किसी राज्य की सरकार के अधीन लाभ का पद धारण करने वाला नहीं समझा जाएगा कि वह संघ का या ऐसे राज्य का मंत्री है ।

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[33] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा (1-11-1956 से) "पहली अनुसूची के भाग क या भाग ख में विनिर्दिष्ट" शब्दों और अक्षरों का लोप किया गया ।

[34] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा (1-11-1956 से) "ऐसे किसी राज्य" के स्थान पर प्रतिस्थापित ।

[35] समसामयिक सदस्यता प्रतिषेध नियम, 1950 जिल्द 1 के भाग 3 में देखिए विधि मंत्रालय की अधिसूचना सं0 एफ0 46/50-सी, तारीख 26 जनवरी, 1950, भारत का राजपत्र, असाधारण, पृ0 678 में प्रकाशित समसामयिक सदस्यता प्रतिषेध नियम, 1950 ।

[36] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 2 द्वारा (1-3-1985 से) "अनुच्छेद 102 के खंड (1)" के स्थान पर प्रतिस्थापित ।

[37] संविधान (तैंतीसवां संशोधन) अधिनियम, 1974 की धारा 2 द्वारा उपखंड (ख) के स्थान पर प्रतिस्थापित ।

[38] संविधान (तैंतीसवां संशोधन) अधिनियम, 1974 की धारा 2 द्वारा अंतःस्थापित ।

[39] संसद् (निरर्हता निवारण) अधिनियम, 1959 (1959 का 10) जिल्द 1 के भाग 4 में देखिए ।

[40] लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 7 आगे भाग 2 में देखिए ।

[41] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 3 द्वारा (1-3-1985 से) "(2) इस अनुच्छेद के प्रयोजनों के लिए" शब्दों के स्थान पर प्रतिस्थापित ।

99. Oath or affirmation by members.—Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

* * * * *

Disqualifications of Members

101. Vacation of seats.—(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State [1]***, and if a person is chosen a member both of Parliament and of a House of the Legislature of [2][a State], then, at the expiration of such period as may be specified in rules[3] made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament—

(*a*) becomes subject to any of the disqualifications mentioned in [4][clause (1) or clause (2) of article 102], or

[5][(*b*) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be,]

his seat shall thereupon become vacant:

[6][Provided that in the case of any resignation referred to in sub-clause (*b*), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

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

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

102. Disqualifications for membership.—(*1*) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

(*a*) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law[7] not to disqualify its holder;

(*b*) if he is of unsound mind and stands so declared by a competent court;

(*c*) if he is an undischarged insolvent;

(*d*) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

(*e*) if he is so disqualified by or under any law[8] made by Parliament.

[9][*Explanation*.—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

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1. The words "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).
2. Subs. by s. 29 and Sch., *ibid*., for "such a State" (w.e.f. 1-11-1956).
3. *See* the Prohibition of Simultaneous Membership Rules, 1950, in Vol. I, Part III, *infra*.
4. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 2, for "clause (1) of article 102" (w.e.f. 1-3-1985).
5. Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 2, for sub-clause (*b*).
6. Ins. by s. 2, *ibid.*
7. *See* the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959), in Volume I, Part IV, infra.
8. *See* the Representation of the People Act, 1951 (43 of 1951), s. 7, in Part II, *infra*.
9. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, for "(2) For the purposes of this article" (w.e.f. 1-3-1985).

[42][(2) कोई व्यक्ति संसद् के किसी सदन का सदस्य होने के लिए निरर्हित होगा यदि वह दसवीं अनुसूची के अधीन इस प्रकार निरर्हित हो जाता है ।]

[43]**[103. सदस्यों की निरर्हताओं से संबंधित प्रश्नों पर विनिश्चय**---(1) यदि यह प्रश्न उठता है कि संसद् के किसी सदन का कोई सदस्य अनुच्छेद 102 के खंड (1) में वर्णित किसी निरर्हता से ग्रस्त हो गया है या नहीं तो वह प्रश्न राष्ट्रपति को विनिश्चय के लिए निर्देशित किया जाएगा और उसका विनिश्चय अंतिम होगा ।

(2) ऐसे किसी प्रश्न पर विनिश्चय करने के पहले राष्ट्रपति निर्वाचन आयोग की राय लेगा और ऐसी राय के अनुसार कार्य करेगा।]

104. अनुच्छेद 99 के अधीन शपथ लेने या प्रतिज्ञान करने से पहले या अर्हित न होते हुए या निरर्हित किए जाने पर बैठने और मत देने के लिए शास्ति---यदि संसद् के किसी सदन में कोई व्यक्ति अनुच्छेद 99 की अपेक्षाओं का अनुपालन करने से पहले, या यह जानते हुए की मैं उसकी सदस्यता के लिए अर्हित नहीं हूं या निरर्हित कर दिया गया हूं या संसद् द्वारा बनाई गई किसी विधि के उपबंधों द्वारा ऐसा करने से प्रतिषिद्ध कर दिया गया हूं, सदस्य के रूप में बैठता है या मत देता है तो वह प्रत्येक दिन के लिए जब वह इस प्रकार बैठता है या मत देता है, पांच सौ रुपए की शास्ति का भागी होगा जो संघ को देय ऋण के रूप में वसूल की जाएगी ।

*   *   *   *   *   *

भाग 6

[44]* राज्य**

*   *   *   *   *   *

अध्याय 2--- कार्यपालिका

राज्यपाल

*   *   *   *   *   *

158. राज्यपाल के पद के लिए शर्तें---(1) राज्यपाल संसद् के किसी सदन का या पहली अनुसूची में विनिर्दिष्ट किसी राज्य के विधान-मंडल के किसी सदन का सदस्य नहीं होगा और यदि संसद् के किसी सदन का या ऐसे किसी राज्य के विधान-मंडल के किसी सदन का कोई सदस्य राज्यपाल नियुक्त हो जाता है तो यह समझा जाएगा कि उसने उस सदन में अपना स्थान राज्यपाल के रूप में अपने पद ग्रहण की तारीख से रिक्त कर दिया है ।

*   *   *   *   *   *

164. मंत्रियों के बारे में अन्य उपबंध--(1) *   *   *   *

[45][(1क) किसी राज्य की मंत्रिपरिषद् में मुख्य मंत्री सहित मंत्रियों की कुल संख्या उस राज्य की विधान सभा के सदस्यों की कुल संख्या के पन्द्रह प्रतिशत से अधिक नहीं होगी :

परन्तु किसी राज्य में मुख्य मंत्री सहित मंत्रियों की संख्या बारह से कम नहीं होगी :

परन्तु यह और कि जहां संविधान (इक्यानवेवां संशोधन) अधिनियम, 2003 के प्रारंभ पर मंत्रिपरिषद् में मुख्य मंत्री सहित मंत्रियों की कुल संख्या, यथास्थिति, उक्त पन्द्रह प्रतिशत या पहले परन्तुक में विनिर्दिष्ट संख्या से अधिक है वहां उस राज्य में मंत्रियों की कुल संख्या ऐसी तारीख से, जो राष्ट्रपति लोक अधिसूचना द्वारा नियत करें, छह मास के भीतर इस खंड के उपबंधों के अनुरूप लाई जाएगी ।]

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[42] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 3 द्वारा (1-3-1985 से) अंतःस्थापित ।

[43] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 14 द्वारा (20-6-1979 से) अनुच्छेद 103 के स्थान पर प्रतिस्थापित ।

[44] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "पहली अनुसूची के भाग क में के" शब्दों का लोप किया गया ।

[45] संविधान (इक्यानवेवा संशोधन) अधिनियम, 2003 की धारा 3 द्वारा (1-1-2004 से) अंतःस्थापित ।

[1][(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.]

[2][**103. Decision on questions as to disqualifications of members**.—(*1*) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (*1*) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(*2*) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.]

104. Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.— If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

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PART VI

THE STATES [3]***

* * * * *

CHAPTER II.—THE EXECUTIVE

The Governor

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158. Conditions of Governor's office.—(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

* * * * *

164. Other provisions as to Ministers.—(1)* * * * *

[4][(1A) The total number of Ministers, including the Chief Minister, in the Council of ministers in a state shall not exceed fifteen per cent. of the total number of members of the legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister, in a State shall not be less than twelve:

Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the Commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then, the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.

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1. Ins. by the Constitution (Fifty-second Amendment) Act, 1985, s. 3, *ibid.* (w.e.f. 1-3-1985).
2. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 14, for article 103 (w.e.f. 20-6-1979).
3. The words "IN PART A OF THE FIRST SCHEDULE" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.
4. Ins. By the Constitution (Ninety-first Amendment) Act, 2003, s. 3, (w.e.f. 1-1-2004).

(1ख) किसी राजनीतिक दल का किसी राज्य की विधान सभा का या किसी राज्य के विधान-मंडल के किसी सदन का जिसमें विधान परिषद् है, कोई सदस्य जो दसवीं अनुसूची के पैरा 2 के अधीन उस सदन का सदस्य होने के लिए निरर्हित है, अपनी निरर्हता की तारीख से प्रारंभ होने वाली और उस तारीख तक जिसको चऐसे सदस्य के रूप में उसकी पदावधि सामप्त होगी या जहां वह, ऐसी अवधि की समाप्ति के पूर्व, यथास्थिति, किसी राज्य की विधान सभा के लिए या विधान परिषद् वाले किसी राज्य के विधान मंडल के किसी सदन के लिए कोई निर्वाचन लड़ता है, उस तारीख तक जिसको वह निर्वाचित घोषित किया जाता है, इनमें से जो भी पूर्वतर हो, की अवधि के दौरान, खंड (1) के अधीन मंत्री के रूप में नियुक्त किए जाने के लिए भी निरर्हित होगा ।]

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अध्याय 3 -- राज्य का विधान-मंडल

साधारण

168. राज्यों के विधान-मंडलों का गठन---(1) प्रत्येक राज्य के लिए एक विधान-मंडल होगा जो राज्यपाल और----

(क) [46]*** बिहार,[47]***[48] [49]*** [50][महाराष्ट्र], [51][कर्नाटक], [52]*** [53][और उत्तर प्रदेश] राज्यों में दो सदनों से ;

(ख) अन्य राज्यों में एक सदन से,

मिलकर बनेगा ।

(2) जहां किसी राज्य के विधान-मंडल के दो सदन हैं वहां एक का नाम विधान परिषद् और दूसरे का नाम विधान सभा होगा और जहां केवल एक सदन है वहां उसका नाम विधान सभा होगा ।

169. राज्यों में विधान परिषदों का उत्सादन या सृजन---(1) अनुच्छेद 168 में किसी बात के होते हुए भी, संसद् विधि द्वारा किसी विधान परिषद् वाले राज्य में विधान परिषद् के उत्सादन के लिए या ऐसे राज्य में, जिसमें विधान परिषद् नहीं है, विधान परिषद् के सृजन के लिए उपबंध कर सकेगी, यदि उस राज्य की विधान सभा ने, इस आशय का संकल्प विधान सभा की कुल सदस्य संख्या के बहुमत द्वारा तथा उपस्थित और मत देने वाले सदस्यों की संख्या से कम से कम दो-तिहाई बहुमत द्वारा पारित कर दिया है ।

(2) खंड (1) में निर्दिष्ट किसी विधि में इस संविधान के संशोधन के लिए ऐसे उपबंध अंतर्विष्ट होंगे जो उस विधि के उपबंधों को प्रभावी करने के लिए आवश्यक हों तथा ऐसे अनुपूरक, आनुषंगिक और पारिणामिक उपबंध भी अंतर्विष्ट हो सकेंगे जिन्हें संसद् आवश्यक समझे ।

(3) पूर्वोक्त प्रकार की कोई विधि अनुच्छेद 368 के प्रयोजनों के लिए इस संविधान का संशोधन नहीं समझी जाएगी ।

[54][**170. विधान सभाओं की संरचना**---(1) अनुच्छेद 333 के उपबंधों के अधीन रहते हुए, प्रत्येक राज्य की विधान सभा उस राज्य में प्रादेशिक निर्वाचन-क्षेत्रों से प्रत्यक्ष निर्वाचन द्वारा चुने हुए पांच सौ से अनधिक और साठ से अन्यून सदस्यों से मिलकर बनेगी ।

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[46] आंध्र प्रदेश विधान परिषद् (उत्सादन) अधिनियम, 1985 (1985 का 34) की धारा 4 द्वारा (1-6-1985 से) "आंध्र प्रदेश" शब्दों का लोप किया गया।

[47] मुंबई पुनर्गठन अधिनियम, 1960 (1960 का 11) की धारा 20 द्वारा (1-5-1960 से) "मुंबई" शब्द का लोप किया गया ।

[48] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 8(2) में "मध्य प्रदेश" शब्दों के अंतःस्थापन की इस उपखंड में कोई तारीख नियत नहीं की गई है ।

[49] तमिलनाडु विधान परिषद् (उत्सादन) अधिनियम, 1986 (1986 का 40) की धारा 4 द्वारा (1-11-1986 से) "तमिलनाडु" शब्द का लोप किया गया ।

[50] मुंबई पुनर्गठन अधिनियम, 1960 (1960 का 11) की धारा 20 द्वारा (1-5-1960 से) अंतःस्थापित ।

[51] संविधान (सातवाँ संशोधन) अधिनियम, 1956 की धारा 8 द्वारा अंतःस्थापित " मैसूर" के स्थान पर मैसूर राज्य (नाम परिवर्तन) अधिनियम, 1973 (1973 का 31) की धारा 4 द्वारा (1-11-1973 से) प्रतिस्थापित ।

[52] पंजाब विधान परिषद् (उत्सादन) अधिनियम, 1969 (1969 का 46) की धारा 4 द्वारा (7-1-1970 से) "पंजाब" शब्द का लोप किया गया ।

[53] पश्चिमी बंगाल विधान परिषद् (उत्सादन)अधिनियम, 1969 (1969 का 20) की धारा 4 द्वारा (1-8-1969 से) "उत्तर प्रदेश और पश्चिमी बंगाल" के स्थान पर प्रतिस्थापित ।

[54] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 9 द्वारा(1-11-1956 से) अनुच्छेद 170 के स्थान पर प्रतिस्थापित ।

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.]

*   *   *   *   *

CHAPTER III.—THE STATE LEGISLATURE

General

168. Constitution of Legislatures in States.—(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(*a*) in the States of [1]*** Bihar, [2]***[3] [4]*** [5][Maharashtra], [6][Karnataka] [7]*** [8][and Uttar Pradesh], two Houses;

(*b*) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

169. Abolition or creation of Legislative Councils in States.—(1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

[9][**170. Composition of the Legislative Assemblies.**—(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

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1. The words "Andhra Pradesh," omitted by the Andhra Pradesh Legislative Council (Abolition) Act, 1985 (34 of 1985) s. 4 (w.e.f. 1.6.1985).
2. The word "Bombay" omitted by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).
3. No date has been appointed under s. 8(2) of the Constitution (Seventh Amendment) Act, 1956, for the insertion of the words "Madhya Pradesh" in this sub-clause.
4. The words "Tamil Nadu" omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986 (40 of 1986), s. 4 (w.e.f. 1-11-1986).
5. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 20 (w.e.f. 1-5-1960).
6. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 4, for "Mysore" (w.e.f. 1-11-1973) which was ins. by the Constitution (Seventh Amendment) Act, 1956, s. 8.
7. The word ",Punjab," omitted by the Punjab Legislative Council (Abolition) Act, 1969 (46 of 1969), s. 4 (w.e.f. 7-1-1970).
8. च्ढडड्ढ उन् दण्ड्ढ ज़्ड्ढद्द ख्ड्ढदश्ड्ढ ख्ड्ढश्द्मश्ड्ढद्दद्ध ड्डदृद्दहत्थ (एडदृथ्द्दद्वद) एहद्द 1969 (20 दृढ 1969). द्म 4, ढदृद्ध 'छद्दद्दड्ढद्ध घ्द्दड्डड्ड्ढद्म ड्ढदड्ड ज़्ड्ढद्द ख्ड्ढदश्ड्ढ' (ध्.ड्ढ.ढ. 1-8-1969).
9. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 9, for article 170 (w.e.f. 1-11-1956).

(2) खंड (1) के प्रयोजनों के लिए, प्रत्येक राज्य को प्रादेशिक निर्वाचन-क्षेत्रों में ऐसी रीति से विभाजित किया जाएगा कि प्रत्येक निर्वाचन-क्षेत्र की जनसंख्या का उसको आबंटित स्थानों की संख्या से अनुपात समस्त राज्य में यथासाध्य एक ही हो।

[55][**स्पष्टीकरण**---इस खंड में "जनसंख्या" पद से ऐसी अंतिम पूर्ववर्ती जनगणना में अभिनिश्चित की गई जनसंख्या अभिप्रेत है जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं :

परंतु इस स्पष्टीकरण में अंतिम पूर्ववर्ती जनगणना के प्रति जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं, निर्देश का, जब तक सन् [56][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं, यह अर्थ लगाया जाएगा कि वह [57][2001] की जनगणना के प्रति निर्देश है।]

(3) प्रत्येक जनगणना की समाप्ति पर प्रत्येक राज्य की विधान सभा में स्थानों की कुल संख्या और प्रत्येक राज्य के प्रादेशिक निर्वाचन-क्षेत्रों में विभाजन का ऐसे प्राधिकारी द्वारा और ऐसी रीति से पुनःसमायोजन किया जाएगा जो संसद् विधि द्वारा अवधारित करे :

परंतु ऐसे पुनःसमायोजन से विधान सभा में प्रतिनिधित्व पर तब तक कोई प्रभाव नहीं पड़ेगा जब तक उस समय विद्यमान विधान सभा का विघटन नहीं हो जाता है :]

[58][परंतु यह और कि ऐसा पुनःसमायोजन उस तारीख से प्रभावी होगा जो राष्ट्रपति आदेश द्वारा विनिर्दिष्ट करे और ऐसे पुनःसमायोजन के प्रभावी होने तक विधान सभा के लिए कोई निर्वाचन उन प्रादेशिक निर्वाचन-क्षेत्रों के आधार पर हो सकेगा जो ऐसे पुनःसमायोजन के पहले विद्यमान हैं :

परंतु यह और भी कि जब तक सन् [2][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं तब तक [59][इस खंड के अधीन,-

(i) प्रत्येक राज्य की विधान सभा में 1971 की जनगणना के आधार पर पुनःसमायोजित स्थानों की कुल संख्या का ; और

(ii) ऐसे राज्य के प्रादेशिक निर्वाचन - क्षेत्रों में विभाजन का, जो [3][2001] की जनगणना के आधार पर, पुनःसमायोजित किए जाएं,

पुनःसमायोजन आवश्यक नहीं होगा ।]

171. विधान परिषदों की संरचना---(1) विधान परिषद् वाले राज्य की विधान परिषद् के सदस्यों की कुल संख्या उस राज्य की विधान सभा के सदस्यों की कुल संख्या के [60][एक-तिहाई] से अधिक नहीं होगीः

परंतु किसी राज्य की विधान परिषद् के सदस्यों की कुल संख्या किसी भी दशा में चालीस से कम नहीं होगी ।

(2) जब तक संसद् विधि द्वारा अन्यथा उपबंध न करे तब तक किसी राज्य की विधान परिषद् की संरचना खंड (3) में उपबंधित रीति से होगी ।

(3) किसी राज्य की विधान परिषद् के सदस्यों की कुल संख्या का---

(क) यथाशक्य निकटतम एक-तिहाई भाग उस राज्य की नगरपालिकाओं, जिला बोर्डों और अन्य ऐसे स्थानीय प्राधिकारियों के, जो संसद् विधि द्वारा विनिर्दिष्ट करे, सदस्यों से मिलकर बनने वाले निर्वाचक-मंडलों द्वारा निर्वाचित होगा ;

(ख) यथाशक्य निकटतम बारहवां भाग उस राज्य में निवास करने वाले ऐसे व्यक्तियों से मिलकर बनने वाले निर्वाचक-मंडलों द्वारा निर्वाचित होगा, जो भारत के राज्यक्षेत्र में किसी विश्वविद्यालय के कम से कम तीन वर्ष से स्नातक हैं या जिनके पास कम से कम तीन वर्ष से ऐसी अर्हताएं जो संसद् द्वारा बनाई गई किसी विधि या उसके अधीन ऐसे किसी विश्वविद्यालय के स्नातक की अर्हताओं के समतुल्य विहित की गई हों ;

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[55] संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 29 द्वारा स्पष्टीकरण के स्थान पर (3-1-1977 से) प्रतिस्थापित ।

[56] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 5 द्वारा "2000" के स्थान पर प्रतिस्थापित ।

[57] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 5 द्वारा तत्पश्चात संविधान (सतासीवां संशोधन) अधिनियम, 2003 की धारा 4 द्वारा '1991' के स्थान पर प्रतिस्थापित ।

[58] संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 29 द्वारा (31-1-1977 से) अंतःस्थापित ।

[59] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 5 द्वारा कुछ शब्दों के स्थान पर प्रतिस्थापित ।

[60] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 10 द्वारा (1-11-1956 से) " एक चौथाई" के स्थान पर प्रतिस्थापित।

(ग) यथाशक्य निकटतम बारहवां भाग ऐसे व्यक्तियों से मिलकर बनने वाले निर्वाचक-मंडलों द्वारा निर्वाचित होगा जो राज्य. के भीतर माध्यमिक पाठशालाओं से अनिम्न स्तर की ऐसी शिक्षा संस्थाओं में, जो संसद् द्वारा बनाई गई किसी विधि द्वारा या उसके अधीन विहित की जाएं, पढ़ाने के काम में कम से कम तीन वर्ष से लगे हुए हैं ;

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

[1][*Explanation*.—In this clause, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year [2][2026] have been published, be construed as a reference to the [2][[3][2001]] census.]

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

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

[4][Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year [2][2026] have been published, it shall not be necessary to [5][readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the [3][2001] census,

under this clause.]]

171. Composition of the Legislative Councils.—(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed [6][one-third] of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) If the total number of members of the Legislative Council of a State—

(*a*) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(*b*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(*c*) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

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1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, for the former *Explanation* (w.e.f. 3-1-1977).
2. च्ड्ड्ड. ड्ङ् द्ण्ड्ड ्व्दृदद्द्द्द्द्दृद (ग्त्श्ण्द्द-ढदृद्वद्द्ण एश्ड्डदड्ड्श्ड्डदद्द) एहद्द, 2001, द्द.5, ढदृद्ध □2000ङ्ग ड्डदड्ड □1971ङ्ग द्धड्डद्मद्रड्डहद्दद्ध्ड्डथ्द्र
3. च्ड्डड्ड. ड्ङ् द्ण्ड्ड ्व्दृदद्द्द्द्द्दृद (ग्त्श्ण्द्द-द्ड्डध्ड्डदद्ण एश्ड्डदड्डश्ड्डदद्द) एहद्द, 2003, द्द.4, ढदृद्ध □1991ङ्ग

4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 29, (w.e.f. 3-1-1977).
5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 5, for certain words.
6. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 10, for "one-fourth" (w.e.f. 1-11-1956).

(घ) यथाशक्य निकटतम एक-तिहाई भाग राज्य की विधान सभा के सदस्यों द्वारा ऐसे व्यक्तियों में से निर्वाचित होगा जो विधान सभा के सदस्य नहीं हैं ;

(ङ) शेष सदस्य राज्यपाल द्वारा खंड (5) के उपबंधों के अनुसार नामनिर्देशित किए जाएंगे ।

(4) खंड (3) के उपखंड (क), उपखंड (ख) और उपखंड (ग) के अधीन निर्वाचित होने वाले सदस्य ऐसे प्रादेशिक निर्वाचन-क्षेत्रों में चुने जाएंगे, जो संसद् द्वारा बनाई गई विधि द्वारा या उसके अधीन विहित किए जाएं तथा उक्त उपखंडों के और उक्त खंड के उपखंड (घ) के अधीन निर्वाचन आनुपातिक प्रतिनिधित्व पद्धति के अनुसार एकल संक्रमणीय मत द्वारा होंगे ।

(5) राज्यपाल द्वारा खंड (3) के उपखंड (ङ) के अधीन नामनिर्देशित किए जाने वाले सदस्य ऐसे व्यक्ति होंगे जिन्हें निम्नलिखित विषयों के संबंध में विशेष ज्ञान या व्यावहारिक अनुभव है, अर्थात् :---

साहित्य, विज्ञान, कला, सहकारी आंदोलन और समाज सेवा ।

172. राज्यों के विधान-मंडलों की अवधि---(1) प्रत्येक राज्य की प्रत्येक विधान सभा, यदि पहले ही विघटित नहीं कर दी जाती है तो, अपने प्रथम अधिवेशन के लिए नियत तारीख से [61][पांच वर्ष] तक बनी रहेगी, इससे अधिक नहीं और [1][पांच वर्ष] की उक्त अवधि की समाप्ति का परिणाम विधान सभा का विघटन होगा :

परंतु उक्त अवधि को, जब आपात की उद्घोषणा प्रवर्तन में है, तब संसद् विधि द्वारा, ऐसी अवधि के लिए बढ़ा सकेगी, जो एक बार में एक वर्ष से अधिक नहीं होगी और उद्घोषणा के प्रवर्तन में न रह जाने के पश्चात् किसी भी दशा में उसका विस्तार छह मास की अवधि से अधिक नहीं होगा ।

(2) राज्य की विधान परिषद् का विघटन नहीं होगा, किंतु उसके सदस्यों में से यथासंभव निकटतम एक-तिहाई सदस्य संसद् द्वारा विधि द्वारा इस निमित्त बनाए गए उपबंधों के अनुसार, प्रत्येक द्वितीय वर्ष की समाप्ति पर यथाशक्य शीघ्र निवृत्त हो जाएंगे ।

173. राज्य के विधान-मंडल की सदस्यता के लिए अर्हता --- कोई व्यक्ति किसी राज्य के विधान-मंडल के किसी स्थान को भरने के लिए चुने जाने के लिए अर्हित तभी होगा जब---

[62][(क) वह भारत का नागरिक है और निर्वाचन आयोग द्वारा इस निमित्त प्राधिकृत किसी व्यक्ति के समक्ष तीसरी अनुसूची में इस प्रयोजन के लिए दिए गए प्ररूप के अनुसार शपथ लेता है या प्रतिज्ञान करता है और उस पर अपने हस्ताक्षर करता है ;]

(ख) वह विधान सभा के स्थान के लिए कम से कम पच्चीस वर्ष की आयु का और विधान परिषद् के स्थान के लिए कम से कम तीस वर्ष की आयु का है ; और

(ग) उसके पास ऐसी अन्य अर्हताएं हैं जो इस निमित्त संसद् द्वारा बनाई गई किसी विधि[63] द्वारा या उसके अधीन विहित की जाएं ।

[64][**174. राज्य के विधान-मंडल के सत्र, सत्रावसान और विघटन**---(1) राज्यपाल, समय-समय पर, राज्य के विधान-मंडल के सदन या प्रत्येक सदन को ऐसे समय और स्थान पर जो वह ठीक समझे, अधिवेशन के लिए आहूत करेगा, किंतु उसके एक सत्र की अंतिम बैठक और आगामी सत्र की प्रथम बैठक के लिए नियत तारीख के बीच छह मास का अंतर नहीं होगा ।

(2) राज्यपाल, समय-समय पर---

(क) सदन का या किसी सदन का सत्रावसान कर सकेगा ;

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[61] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 24 द्वारा (6-9-1979 से) "छह वर्ष" के स्थान पर प्रतिस्थापित ।
[62] संविधान (सोलहवां संशोधन) अधिनियम, 1963 की धारा 4 द्वारा खंड (क) के स्थान पर प्रतिस्थापित ।
[63] लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धाराएं 5, 5क और 6 आगे भाग 2 में देखिए ।
[64] संविधान (पहला संशोधन) अधिनियम, 1951 की धारा 8 द्वारा मूल अनुच्छेद के स्थान पर प्रतिस्थापित ।

(ख) विधान सभा का विघटन कर सकेगा ।]

* * * * * *

(*d*) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(*e*) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (*a*), (*b*) and (*c*) of clause (*3*) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (*d*) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(*5*) The members to be nominated by the Governor under sub-clause (*e*) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely: —

Literature, science, art, co-operative movement and social service.

172. Duration of State Legislatures.—(*1*) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for [1][five years] from the date appointed for its first meeting and no longer and the expiration of the said period of [1][five years] shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

173. Qualification for membership of the State Legislature.—A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

[2][(*a*) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;]

(*b*) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under and law[3] made by Parliament.

[4][**174. Sessions of the State Legislature, prorogation and dissolution.**—(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(*a*) prorogue the House or either House;

(*b*) dissolve the Legislative Assembly.]

(*b*) dissolve the Legislative Assembly.]

* * * * *

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1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 24, for "six years" (w.e.f. 6-9-1979).
2. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 4, for cl. (*a*).
3. *See* the Representation of the People Act, 1951 (43 of 1951), ss. 5, 5A and 6, in Part II, *infra*.
4. Subs. by the Constitution (First Amendment) Act, 1951, s. 8, for article 174.

कार्य संचालन

188. सदस्यों द्वारा शपथ या प्रतिज्ञान--- राज्य की विधान सभा या विधान परिषद् का प्रत्येक सदस्य अपना स्थान ग्रहण करने से पहले, राज्यपाल या उसके द्वारा इस निमित्त नियुक्त व्यक्ति के समक्ष, तीसरी अनुसूची में इस प्रयोजन के लिए दिए गए प्ररूप के अनुसार, शपथ लेगा या प्रतिज्ञान करेगा और उस पर अपने हस्ताक्षर करेगा ।

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सदस्यों की निरर्हताएं

190. स्थानों का रिक्त होना--- (1) कोई व्यक्ति राज्य के विधान-मंडल के दोनों सदनों का सदस्य नहीं होगा और जो व्यक्ति दोनों सदनों का सदस्य चुन लिया जाता है उसके एक या दूसरे सदन के स्थान को रिक्त करने के लिए उस राज्य का विधान-मंडल विधि द्वारा उपबंध करेगा ।

(2) कोई व्यक्ति पहली अनुसूची में विनिर्दिष्ट दो या अधिक राज्यों के विधान-मंडलों का सदस्य नहीं होगा और यदि कोई व्यक्ति दो या अधिक ऐसे राज्यों के विधान-मंडलों का सदस्य चुन लिया जाता है तो ऐसी अवधि की समाप्ति के पश्चात् जो राष्ट्रपति द्वारा बनाए गए नियमों[65] में विनिर्दिष्ट की जाए, ऐसे सभी राज्यों के विधान-मंडलों में ऐसे व्यक्ति का स्थान रिक्त हो जाएगा यदि उसने एक राज्य को छोड़कर अन्य राज्यों के विधान-मंडलों में अपने स्थान को पहले ही नहीं त्याग दिया है ।

(3) यदि राज्य के विधान-मंडल के किसी सदन का सदस्य---

(क) [66][अनुच्छेद 191 के खंड (1) या खंड (2)] में वर्णित किसी निरर्हता से ग्रस्त हो जाता है ; या

[67][(ख) यथास्थिति, अध्यक्ष या सभापति को संबोधित अपने हस्ताक्षर सहित लेख द्वारा अपने स्थान का त्याग कर देता है और उसका त्यागपत्र, यथास्थिति, अध्यक्ष या सभापति द्वारा स्वीकार कर लिया जाता है,]

तो ऐसा होने पर उसका स्थान रिक्त हो जाएगा :

[68][परंतु उपखंड (ख) में निर्दिष्ट त्यागपत्र की दशा में, यदि प्राप्त जानकारी से या अन्यथा और ऐसी जांच करने के पश्चात्, जो वह ठीक समझे, यथास्थिति, अध्यक्ष या सभापति का यह समाधान हो जाता है कि ऐसा त्यागपत्र स्वैच्छिक या असली नहीं है तो वह ऐसे त्यागपत्र को स्वीकार नहीं करेगा ।]

(4) यदि किसी राज्य के विधान-मंडल के किसी सदन का सदस्य साठ दिन की अवधि तक सदन की अनुज्ञा के बिना उसके सभी अधिवेशनों से अनुपस्थित रहता है तो सदन उसके स्थान को रिक्त घोषित कर सकेगा :

परंतु साठ दिन की उक्त अवधि की संगणना करने में किसी ऐसी अवधि को हिसाब में नहीं लिया जाएगा जिसके दौरान सदन सत्रावसित या निरंतर चार से अधिक दिनों के लिए स्थगित रहता है ।

191. सदस्यता के लिए निरर्हताएं---(1) कोई व्यक्ति किसी राज्य की विधान सभा या विधान परिषद् का सदस्य चुने जाने के लिए और सदस्य होने के लिए निरर्हित होगा---

(क) यदि वह भारत सरकार के या पहली अनुसूची में विनिर्दिष्ट किसी राज्य की सरकार के अधीन, ऐसे पद को छोड़कर जिसको धारण करने वाले का निरर्हित न होना राज्य के विधान-मंडल ने विधि द्वारा घोषित किया है, कोई लाभ का पद धारण करता है ;

(ख) यदि वह विकृतचित्त है और सक्षम न्यायालय की ऐसी घोषणा विद्यमान है ;

(ग) यदि वह अनुन्मोचित दिवालिया है ;

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[65] समसामयिक सदस्यता प्रतिषेध नियम, 1950 जिल्द 1 के भाग 3 में देखिए ।
[66] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 4 द्वारा (1-3-1985से) "अनुच्छेद 191 के खंड (1)" के स्थान पर प्रतिस्थापित ।
[67] संविधान (तैतीसवां संशोधन) अधिनियम, 1974 की धारा 3 द्वारा उपखंड (ख) के स्थान पर प्रतिस्थापित ।
[68] संविधान (तैंतीसवां संशोधन) अधिनियम, 1974 की धारा 3 द्वारा अंतःस्थापित ।

(घ) यदि वह भारत का नागरिक नहीं है या उसने किसी विदेशी राज्य की नागरिकता स्वेच्छा से अर्जित कर ली है या वह किसी विदेशी राज्य के प्रति निष्ठा या अनुषक्ति को अभिस्वीकार किए हुए है ;

Conduct of Business

188. Oath or affirmation by members.—Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

* * * * *

Disqualifications of Members

190. Vacation of seats.—(1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules[1] made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

(*a*) becomes subject to any of the disqualifications mentioned in [2][clause (1) or clause (2) of article 191]; or

[3][(*b*) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,]

his seat shall thereupon become vacant:

[4][Provided that in the case of any resignation referred to in sub-clause (*b*), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]

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

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

191. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(*a*) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;

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1. *See* the Prohibition of Simultaneous Membership Rules, 1950, in Vol. I, Part III, *infra*.
2. च्द्वड्ड़ उट्र द्यण्ड्ढ व्र्दृदद्मद्यत्द्वद्यत्दृद (क्त्ढद्य-ड्ढहदृदड्ड एथ्ड्ढदड्डथ्ड्ढदद्य) एहद्द, 1985, ड्ड. 4, ढदृद्ध 'हथ्ठ्ठद्वड्ड (1) दृढ ड्डद्धद्यत्हथ्ड्ढ 191' (ध्.ड्ड.ढ. 1-3-1985).
3. Subs. by the Constitution (Thirty-third Amendment) Act, 1974, s. 3, for sub-clause (*b*).
4. Ins. by s. 3, *ibid*.

(ङ) यदि वह संसद् द्वारा बनाई गई किसी विधि[69] द्वारा या उसके अधीन इस प्रकार निरर्हित कर दिया जाता है ।

[70][**स्पष्टीकरण**---इस खंड के प्रयोजनों के लिए] कोई व्यक्ति केवल इस कारण भारत सरकार के या पहली अनुसूची में विनिर्दिष्ट किसी राज्य की सरकार के अधीन लाभ का पद धारण करने वाला नहीं समझा जाएगा कि वह संघ का या ऐसे राज्य का मंत्री है ।

[71][(2) कोई व्यक्ति किसी राज्य की विधान सभा या विधान परिषद् का सदस्य होने के लिए निरर्हित होगा यदि वह दसवीं अनुसूची के अधीन इस प्रकार निरर्हित हो जाता है ।]

[72][**192. सदस्यों की निरर्हताओं से संबंधित प्रश्नों पर विनिश्चय**---(1) यदि यह प्रश्न उठता है कि किसी राज्य के विधान-मंडल के किसी सदन का कोई सदस्य अनुच्छेद 191 के खंड (1) में वर्णित किसी निरर्हता से ग्रस्त हो गया है या नहीं तो वह प्रश्न राज्यपाल को विनिश्चय के लिए निर्देशित किया जाएगा और उसका विनिश्चय अंतिम होगा ।

(2) ऐसे किसी प्रश्न पर विनिश्चय करने से पहले राज्यपाल निर्वाचन आयोग की राय लेगा और ऐसी राय के अनुसार कार्य करेगा ।]

193. अनुच्छेद 188 के अधीन शपथ लेने या प्रतिज्ञा करने से पहले या अर्हित न होते हुए या निरर्हित किए जाने पर बैठने और मत देने के लिए शास्ति---यदि किसी राज्य की विधान सभा या विधान परिषद् में कोई व्यक्ति अनुच्छेद 188 की अपेक्षाओं का अनुपालन करने से पहले, या यह जानते हुए कि मैं उसकी सदस्यता के लिए अर्हित नहीं हूं या निरर्हित कर दिया गया हूं या संसद् या राज्य के विधान-मंडल द्वारा बनाई गई किसी विधि के उपबंधों द्वारा ऐसा करने से प्रतिषिद्ध कर दिया गया हूं, सदस्य के रूप में बैठता है या मत देता है, तो वह प्रत्येक दिन के लिए जब वह इस प्रकार बैठता है या मत देता है, पांच सौ रुपए की शास्ति का भागी होगा जो राज्य को देय ऋण के रूप में वसूल की जाएगी ।

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भाग 15

निर्वाचन

324. निर्वाचनों के अधीक्षण, निदेशन और नियंत्रण का निर्वाचन आयोग में निहित होना---(1) इस संविधान के अधीन संसद् और प्रत्येक राज्य विधान-मंडल के लिए कराए जाने वाले सभी निर्वाचनों के लिए तथा राष्ट्रपति और उपराष्ट्रपति के पदों के लिए निर्वाचनों के लिए निर्वाचक-नामावली तैयार कराने का और उन सभी निर्वाचनों के संचालन का अधीक्षण, निदेशन और नियंत्रण [73]*** एक आयोग में निहित होगा (जिसे इस संविधान में निर्वाचन आयोग कहा गया है) ।

(2) निर्वाचन आयोग मुख्य निर्वाचन आयुक्त और उतने अन्य निर्वाचन आयुक्तों से, यदि कोई हों, जितने राष्ट्रपति समय-समय पर नियत करे, मिलकर बनेगा तथा मुख्य निर्वाचन आयुक्त और अन्य निर्वाचन आयुक्तों की नियुक्ति, संसद् द्वारा इस निमित्त बनाई गई विधि के उपबंधों के अधीन रहते हुए, राष्ट्रपति द्वारा की जाएगी ।

(3) जब कोई अन्य निर्वाचन आयुक्त इस प्रकार नियुक्त किया जाता है तब मुख्य निर्वाचन आयुक्त निर्वाचन आयोग के अध्यक्ष के रूप में कार्य करेगा ।

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[69] लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 7 आगे भाग 2 में देखिए ।

[70] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 5 द्वारा (1-3-1985) से "(2) इस अनुच्छेद के प्रयोजनों के लिए" के स्थान पर प्रतिस्थापित।

[71] संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 5 द्वारा (1-3-1985से) अंतःस्थापित ।

[72] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 25 द्वारा (20-6-1979 से) अनुच्छेद 192 के स्थान पर प्रतिस्थापित ।

[73] संविधान (उन्नीसवां संशोधन) अधिनियम, 1966 की धारा 2 द्वारा कुछ शब्दों का लोप किया गया ।

(4) लोक सभा के और प्रत्येक राज्य की विधान सभा के प्रत्येक साधारण निर्वाचन से पहले तथा विधान परिषद् वाले प्रत्येक राज्य की विधान परिषद् के लिए प्रथम साधारण निर्वाचन से पहले और उसके पश्चात् प्रत्येक द्विवार्षिक निर्वाचन से पहले, राष्ट्रपति निर्वाचन आयोग से परामर्श करने के पश्चात् खंड (1) द्वारा निर्वाचन आयोग को सौंपे गए कृत्यों के पालन में आयोग की सहायता के लिए उतने प्रादेशिक आयुक्तों की भी नियुक्ति कर सकेगा जितने वह आवश्यक समझे ।

(*e*) if he is so disqualified by or under any law[1] made by Parliament.

[2][*Explanation*.—For the purposes of this clause], a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State specified in the First Schedule by reason only that he is a Minister either for the Union or for such State.

[3][(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.]

[4][**192. Decision on questions as to disqualifications of members**.—(*1*) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.]

193. Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.—If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 188, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

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PART XV

ELECTIONS

324. Superintendence, direction and control of elections to be vested in an Election Commission.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution [5]*** shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

1. *See* the Representation of the People Act, 1951 (43 of 1951), s. 7, in Part II, *infra*.
2. Subs. by the Constitution (Fifty-second Amendment) Act, 1985, s. 5, for "(2) For the purposes of this article" (w.e.f. 1-3-1985).
3. Ins. by s. 5, *ibid*. (w.e.f. 1-3-1985).

4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 25, for article 192 (w.e.f. 20-6-1979).
5. Certain words omitted by the Constitution (Nineteenth Amendment) Act, 1966, s. 2.

(5) संसद् द्वारा बनाई गई किसी विधि के उपबंधों के अधीन रहते हुए, निर्वाचन आयुक्तों और प्रादेशिक आयुक्तों की सेवा की शर्तें और पदावधि ऐसी होंगी जो राष्ट्रपति नियम द्वारा अवधारित करे :

परंतु मुख्य निर्वाचन आयुक्त को उसके पद से उसी रीति से और उन्हीं आधारों पर ही हटाया जाएगा, जिस रीति से और जिन आधारों पर उच्चतम न्यायालय के न्यायाधीश को हटाया जाता है अन्यथा नहीं और मुख्य निर्वाचन आयुक्त की सेवा की शर्तों में उसकी नियुक्ति के पश्चात् उसके लिए अलाभकारी परिवर्तन नहीं किया जाएगा :

परंतु यह और कि किसी अन्य निर्वाचन आयुक्त या प्रादेशिक आयुक्त को मुख्य निर्वाचन आयुक्त की सिफारिश पर ही पद से हटाया जाएगा, अन्यथा नहीं ।

(6) जब निर्वाचन आयोग ऐसा अनुरोध करे तब, राष्ट्रपति या किसी राज्य का राज्यपाल [74]*** निर्वाचन आयोग या प्रादेशिक आयुक्त को उतने कर्मचारिवृन्द उपलब्ध कराएगा जितने खंड (1) द्वारा निर्वाचन आयोग को सौंपे गए कृत्यों के निर्वहन के लिए आवश्यक हों ।

325. धर्म, मूलवंश, जाति या लिंग के आधार पर किसी व्यक्ति का निर्वाचक-नामावली में सम्मिलित किए जाने के लिए अपात्र न होना और उसके द्वारा किसी विशेष निर्वाचक-नामावली में सम्मिलित किए जाने का दावा न किया जाना---संसद् के प्रत्येक सदन या किसी राज्य के विधान-मंडल के सदन या प्रत्येक सदन के लिए निर्वाचन के लिए प्रत्येक प्रादेशिक निर्वाचन-क्षेत्र के लिए एक साधारण निर्वाचक-नामावली होगी और केवल धर्म, मूलवंश, जाति, लिंग या इनमें से किसी के आधार पर कोई व्यक्ति ऐसी किसी नामावली में सम्मिलित किए जाने के लिए अपात्र नहीं होगा या ऐसे किसी निर्वाचन-क्षेत्र के लिए किसी विशेष निर्वाचक-नामावली में सम्मिलित किए जाने का दावा नहीं करेगा ।

326. लोक सभा और राज्यों की विधान सभाओं के लिए निर्वाचनों का वयस्क मताधिकार के आधार पर होना---लोक सभा और प्रत्येक राज्य की विधान सभा के लिए निर्वाचन वयस्क मताधिकार के आधार पर होंगे, अर्थात् प्रत्येक व्यक्ति, जो भारत का नागरिक है और ऐसी तारीख को, जो समुचित विधान-मंडल द्वारा बनाई गई किसी विधि द्वारा या उसके अधीन इस निमित्त नियत की जाए, कम से कम [75][अठारह वर्ष] की आयु का है और इस संविधान या समुचित विधान-मंडल द्वारा बनाई गई किसी विधि के अधीन अनिवास, चित्तविकृति अपराध या भ्रष्ट या अवैध आचरण के आधार पर अन्यथा निरर्हित नहीं कर दिया जाता है, ऐसे किसी निर्वाचन में मतदाता के रूप में रजिस्ट्रीकृत होने का हकदार होगा ।

327. विधान-मंडलों के लिए निर्वाचनों के संबंध में उपबंध करने की संसद् की शक्ति---इस संविधान के उपबंधों के अधीन रहते हुए, संसद् समय-समय पर, विधि द्वारा, संसद् के प्रत्येक सदन या किसी राज्य के विधान-मंडल के सदन या प्रत्येक सदन के लिए निर्वाचनों से संबंधित या संसक्त सभी विषयों के संबंध में, जिनके अंतर्गत निर्वाचक-नामावली तैयार कराना, निर्वाचन-क्षेत्रों का परिसीमन और ऐसे सदन या सदनों का सम्यक् गठन सुनिश्चित करने के लिए अन्य सभी आवश्यक विषय हैं, उपबंध कर सकेगा ।

328. किसी राज्य के विधान-मंडल के लिए निर्वाचनों के संबंध में उपबंध करने की उस विधान-मंडल की शक्ति---इस संविधान के उपबंधों के अधीन रहते हुए और जहां तक संसद् इस निमित्त उपबंध नहीं करती है वहां तक, किसी राज्य का विधान-मंडल समय-समय पर, विधि द्वारा, उस राज्य के विधान-मंडल के सदन या प्रत्येक सदन के लिए निर्वाचनों से संबंधित या संसक्त सभी विषयों के संबंध में, जिनके अंतर्गत निर्वाचक-नामावली तैयार कराना और ऐसे सदन या सदनों का सम्यक् गठन सुनिश्चित करने के लिए अन्य सभी आवश्यक विषय हैं, उपबंध कर सकेगा ।

329. निर्वाचन संबंधी मामलों में न्यायालयों के हस्तक्षेप का वर्जन---[76][इस संविधान में किसी बात के होते हुए भी [77]*** ---]

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[74] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "या राजप्रमुख" शब्दों का लोप किया गया ।

[75] संविधान (इकसठवां संशोधन) अधिनियम, 1988 की धारा 2 द्वारा (28-3-1989 से) "इक्कीस वर्ष" के स्थान पर प्रतिस्थापित ।

[76] संविधान (उनतालीसवां संशोधन) अधिनियम, 1975 की धारा 3 द्वारा (10-8-1975 से) "इस संविधान में किसी बात के होते हुए भी" के स्थान पर प्रतिस्थापित ।

[77] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 35 द्वारा (20-6-1979 से) कुछ शब्दों का लोप किया गया।

(क) अनुच्छेद 327 या अनुच्छेद 328 के अधीन बनाई गई या बनाई जाने के लिए तात्पर्यित किसी ऐसी विधि की विधिमान्यता, जो निर्वाचन-क्षेत्रों के परिसीमन या ऐसे निर्वाचन-क्षेत्रों को स्थानों में आबंटन से संबंधित है किसी न्यायालय में प्रश्नगत नहीं की जाएगी ;

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) The President, or the Governor [1]*** of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).

325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.—There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.— The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than [2][eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

327. Power of Parliament to make provision with respect to elections to Legislatures.—Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, election to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses.

328. Power of Legislature of a State to make provision with respect to elections to such Legislature.— Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

329. Bar to interference by courts in electoral matters.—[3][Notwithstanding anything in this Constitution [4]***—]

(*a*) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

1. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.
2. Subs. by the Constitution (Sixty-first Amendment) Act, 1988, s. 2, for "twenty-one years" (w.e.f. 28-3-1989).
3. Subs. by the Constitution (Thirty-ninth Amendment) Act, 1975, s. 3, for "Notwithstanding anything in this Constitution" (w.e.f. 10-8-1975).

4. Certain words omitted by the Constitution (Forty-fourth Amendment) Act, 1978, s. 35 (w.e.f. 20-6-1979).

(ख) संसद् के प्रत्येक सदन या किसी राज्य के विधान-मंडल के सदन या प्रत्येक सदन के लिए कोई निर्वाचन ऐसी निर्वाचन अर्जी पर ही प्रश्नगत किया जाएगा, जो ऐसे प्राधिकारी को और ऐसी रीति से प्रस्तुत की गई है जिसका समुचित विधान-मंडल द्वारा बनाई गई विधि द्वारा या उसके अधीन उपबंध किया जाए, अन्यथा नहीं ।

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भाग 16

कुछ वर्गों के संबंध में विशेष उपबंध

330. लोक सभा में अनुसूचित जातियों और अनुसूचित जनजातियों के लिए स्थानों का आरक्षण---(1) लोक सभा में-

(क) अनुसूचित जातियों के लिए,

[78][(ख) असम के स्वशासी जिलों की अनुसूचित जनजातियों को छोड़कर अन्य अनुसूचित जनजातियों के लिए, और]

(ग) असम के स्वशासी जिलों की अनुसूचित जनजातियों के लिए,

स्थान आरक्षित रहेंगे ।

(2) खंड (1) के अधीन किसी राज्य [79][या संघ राज्यक्षेत्र] में अनुसूचित जातियों या अनुसूचित जनजातियों के लिए आरक्षित स्थानों की संख्या का अनुपात, लोक सभा में उस राज्य [2][या संघ राज्यक्षेत्र] को आबंटित स्थानों की कुल संख्या से यथाशक्य वही होगा जो, यथास्थिति, उस राज्य [2][या संघ राज्यक्षेत्र] की अनुसूचित जातियों की अथवा उस राज्य [2][या संघ राज्यक्षेत्र] की या उस राज्य [2][या संघ राज्यक्षेत्र] के भाग की अनुसूचित जनजातियों की, जिनके संबंध में स्थान इस प्रकार आरक्षित हैं, जनसंख्या का अनुपात उस राज्य [2][या संघ राज्यक्षेत्र] की कुल जनसंख्या से है ।

[80][(3) खंड (2) में किसी बात के होते हुए भी, लोक सभा में असम के स्वशासी जिलों की अनुसूचित जनजातियों के लिए आरक्षित स्थानों की संख्या का अनुपात, उस राज्य को आबंटित स्थानों की कुल संख्या के उस अनुपात से कम नहीं होगा, जो उक्त स्वशासी जिलों की अनुसूचित जनजातियों की जनसंख्या का अनुपात उस राज्य की कुल जनसंख्या से है ।]

[81][**स्पष्टीकरण**---इस अनुच्छेद में और अनुच्छेद 332 में, "जनसंख्या" पद से ऐसी अंतिम पूर्ववर्ती जनगणना में अभिनिश्चित की गई जनसंख्या अभिप्रेत है जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं :

परंतु इस स्पष्टीकरण में अंतिम पूर्ववर्ती जनगणना के प्रति, जिसके सुसंगत आंकड़े प्रकाशित हो गए हैं, निर्देश का, जब तक सन् [82][2026] के पश्चात् की गई पहली जनगणना के सुसंगत आंकड़े प्रकाशित नहीं हो जाते हैं, यह अर्थ लगाया जाएगा कि वह [83][2001] की जनगणना के प्रति निर्देश है ।]

331. लोक सभा में आंग्ल-भारतीय समुदाय का प्रतिनिधित्व---अनुच्छेद 81 में किसी बात के होते हुए भी, यदि राष्ट्रपति की यह राय है कि लोक सभा में आंग्ल-भारतीय समुदाय का प्रतिनिधित्व पर्याप्त नहीं है तो वह लोक सभा में उस समुदाय के दो से अनधिक सदस्य नामनिर्देशित कर सकेगा ।

[78] संविधान (इक्यावनवां संशोधन) अधिनियम, 1984 की धारा 2 द्वारा (16-6-1986 से) उपखंड (ख) के स्थान पर प्रतिस्थापित ।
[79] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा अंतःस्थापित ।
[80] संविधान (इकतीसवां संशोधन) अधिनियम, 1973 की धारा 3 द्वारा अंतःस्थापित ।
[81] संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 47 द्वारा (3-1-1977से) अंतःस्थापित ।
[82] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 6 द्वारा "2000" के स्थान पर प्रतिस्थापित ।
[83] संविधान (सतासीवां संशोधन) अधिनियम, 2003 की धारा 5 द्वारा "1991" के स्थान पर प्रतिस्थापित ।

332. राज्यों की विधान सभाओं में अनुसूचित जातियों और अनुसूचित जनजातियों के लिए स्थानों का आरक्षण---(1) [84]*** प्रत्येक राज्य की विधान सभा में अनुसूचित जातियों के लिए और [85][असम के स्वशासी जिलों की अनुसूचित जनजातियों को छोड़कर] अन्य अनुसूचित जनजातियों के लिए स्थान आरक्षित रहेंगे ।

(2) असम राज्य की विधान सभा में स्वशासी जिलों के लिए भी स्थान आरक्षित रहेंगे ।

(*b*) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

* * * * *

PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.—(1) Seats shall be reserved in the House of the People for—

(*a*) the Scheduled Castes;

[1][(*b*) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and]

(*c*) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State [2][or Union territory] for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State [2][or Union territory] in the House of the People as the population of the Scheduled Castes in the State [2][or Union territory] or of the Scheduled Tribes in the State [2][or Union territory] or part of the State [2][or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State [2][or Union territory].

[3][(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.]

[4][*Explanation*.—In this article and in article 332, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year [5][2026] have been published, be construed as a reference to the [5][[6][2001] census.]

331. Representation of the Anglo-Indian community in the House of the People.— Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.—(*1*) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, [7][except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State [8]***.

(*2*) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

1. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (*b*) (w.e.f. 16-6-1986).
2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

[84] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "पहली अनुसूची के भाग क या भाग ख में विनिर्दिष्ट" शब्दों और अक्षरों का लोप किया गया ।

[85] संविधान (इक्यावनवां संशोधन) अधिनियम, 1984 की धारा 3 द्वारा (16-6-1986 से) कुछ शब्दों के स्थान पर प्रतिस्थापित ।

3. Ins. by the Constitution (Thirty-first Amendment) Act, 1973, s. 3.
4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 47 (w.e.f. 3-1-1977).
5. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 6, for "2000" and "1971", respectively.
6. Subs. by the Constitution (Eighty-seventh Amendment) Act, 2003, s. 5, for "1991".
7. Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 3, for certain words (w.e.f. 16-6-1986).
8. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

(3) खंड (1) के अधीन किसी राज्य की विधान सभा में अनुसूचित जातियों या अनुसूचित जनजातियों के लिए आरक्षित स्थानों की संख्या का अनुपात, उस विधान सभा में स्थानों की कुल संख्या से यथाशक्य वही होगा जो, यथास्थिति, उस राज्य की अनुसूचित जातियों की अथवा उस राज्य की या उस राज्य के भाग की अनुसूचित जनजातियों की, जिनके संबंध में स्थान इस प्रकार आरक्षित हैं, जनसंख्या का अनुपात उस राज्य की कुल जनसंख्या से है ।

[86][(3क) खंड (3) में किसी बात के होते हुए भी सन् [87][2026] के पश्चात् की गई पहली जनगणना के आधार पर, अरुणाचल प्रदेश, मेघालय, मिजोरम और नागालैण्ड राज्यों की विधान सभाओं में स्थानों की संख्या के अनुच्छेद 170 के अधीन, पुनःसमायोजन के प्रभावी होने तक,जो स्थान ऐसे किसी राज्य की विधान सभा में अनुसूचित जनजातियों के लिए आरक्षित किए जाएंगे, वे---

(क) यदि संविधान (सतावनवां संशोधन) अधिनियम, 1987 के प्रवृत्त होने की तारीख को ऐसे राज्य की विद्यमान विधान सभा में (जिसे इस खंड में इसके पश्चात् विद्यमान विधान सभा कहा गया है) सभी स्थान अनुसूचित जनजातियों के सदस्यों द्वारा धारित हैं तो, एक स्थान को छोड़कर सभी स्थान होंगे ; और

(ख) किसी अन्य दशा में, उतने स्थान होंगे, जिनकी संख्या का अनुपात, स्थानों की कुल संख्या के उस अनुपात से कम नहीं होगा जो विद्यमान विधान सभा में अनुसूचित जनजातियों के सदस्यों की (उक्त तारीख को यथाविद्यमान) संख्या का अनुपात विद्यमान विधान सभा में स्थानों की कुल संख्या से है ।]

[88][(3ख) खंड (3) में किसी बात के होते हुए भी, सन् [2][2026] के पश्चात् की गई पहली जनगणना के आधार पर, त्रिपुरा राज्य की विधान सभा में स्थानों की संख्या के, अनुच्छेद 170 के अधीन, पुनःसमायोजन के प्रभावी होने तक, जो स्थान उस विधान सभा में अनुसूचित जनजातियों के लिए आरक्षित किए जाएंगे वे उतने स्थान होंगे जिनकी संख्या का अनुपात, स्थानों की कुल संख्या के उस अनुपात से कम नहीं होगा जो विद्यमान विधान सभा में अनुसूचित जनजातियों के सदस्यों की, संविधान (बहत्तरवां संशोधन) अधिनियम, 1992 के प्रवृत्त होने की तारीख को यथाविद्यमान संख्या का अनुपात उक्त तारीख को उस विधान सभा में स्थानों की कुल संख्या से है ।]

(4) असम राज्य की विधान सभा में किसी स्वशासी जिले के लिए आरक्षित स्थानों की संख्या का अनुपात, उस विधान सभा में स्थानों की कुल संख्या के उस अनुपात से कम नहीं होगा जो उस जिले की जनसंख्या का अनुपात उस राज्य की कुल जनसंख्या से है ।

(5) [89]*** असम के किसी स्वशासी जिले के लिए आरक्षित स्थानों के निर्वाचन-क्षेत्रों में उस जिले के बाहर का कोई क्षेत्र समाविष्ट नहीं होगा ।

(6) कोई व्यक्ति जो असम राज्य के किसी स्वशासी जिले की अनुसूचित जनजाति का सदस्य नहीं है, उस राज्य की विधान सभा के लिए [4]*** उस जिले के किसी निर्वाचन-क्षेत्र से निर्वाचित होने का पात्र नहीं होगा :

[90][परंतु असम राज्य की विधान सभा के निर्वाचनों के लिए, बोडोलैंड प्रादेशिक क्षेत्र जिला में सम्मिलित निर्वाचन-क्षेत्रों में अनुसूचित जनजातियों और गैरअनुसूचित जनजातियों का प्रतिनिधित्व, जो उस प्रकार अधिसूचित किया गया था और बोडोलैंड प्रादेशिक क्षेत्र जिला के गठन से पूर्व विद्यमान था, बनाए रखा जाएगा ।]

333. राज्यों की विधान सभाओं में आंग्ल-भारतीय समुदाय का प्रतिनिधित्व---अनुच्छेद 170 में किसी बात के होते हुए भी, यदि किसी राज्य के राज्यपाल [91]*** की यह राय है कि उस राज्य की विधान सभा में आंग्ल-भारतीय समुदाय का प्रतिनिधित्व आवश्यक है और उसमें उसका प्रतिनिधित्व पर्याप्त नहीं है तो वह उस विधान सभा में [92][उस समुदाय का एक सदस्य नामनिर्देशित कर सकेगा] ।

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[86] संविधान (सतावनवां संशोधन) अधिनियम, 1987 की धारा 2 द्वारा (21-9-1987) से अंतःस्थापित ।
[87] संविधान (चौरासीवां संशोधन) अधिनियम, 2001 की धारा 7 द्वारा "2000" के स्थान पर प्रतिस्थापित ।
[88] संविधान (बहत्तरवां संशोधन) अधिनियम, 1992 की धारा 2 द्वारा (5-12-1992 से) अंतःस्थापित ।
[89] 1971 के अधिनियम सं. 81 की धारा 71 द्वारा (21-1-1972 से) कुछ शब्दों का लोप किया गया ।
[90] संविधान (नब्बेवां संशोधन) अधिनियम, 2003 की धारा 2 द्वारा (28-9-2003 से) अंतःस्थापित ।
[91] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "या राजप्रमुख" शब्दों का लोप किया गया ।
[92] संविधान (तेईसवां संशोधन) अधिनियम, 1969 की धारा 4 द्वारा (23-1-1970 से) कुछ शब्दों के स्थान पर प्रतिस्थापित।

334. स्थानों के आरक्षण और विशेष प्रतिनिधित्व का [93][साठ वर्ष] के पश्चात् न रहना---इस भाग के पूर्वगामी उपबंधों में किसी बात के होते हुए भी,---

(क) लोक सभा में और राज्यों की विधान सभाओं में अनुसूचित जातियों और अनुसूचित जनजातियों के लिए स्थानों के आरक्षण संबंधी, और

(ख) लोक सभा में और राज्यों की विधान सभाओं में नामनिर्देशन द्वारा आंग्ल-भारतीय समुदाय के प्रतिनिधित्व संबंधी,

इस संविधान के उपबंध इस संविधान के प्रारंभ से [8][साठ वर्ष] की अवधि की समाप्ति पर प्रभावी नहीं रहेंगे :

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

[1][(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year [2][2026], of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,-

(*a*) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(*b*) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.]

[3][(3B) Notwithstanding anything contained in clause (*3*), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year [2][2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district [4]***.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district [4]***.

[5][Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Areas District, shall be maintained.]

333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States.—Notwithstanding anything in article 170, the Governor [6]*** of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, [7][nominate one member of that community to the Assembly].

334. Reservation of seats and special representation to cease after [8][sixty years].—Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(*a*) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of States; and

(*b*) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of [8][sixty years] from the commencement of this Constitution:

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1. Ins. by the Constitution (Fifty-seventh Amendment) Act, 1987, s. 2 (w.e.f. 21-9-1987).

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[93] संविधान (उनासीवां संशोधन) अधिनियम, 1999 की धारा 2 द्वारा (25-1-2000) से 'पचास वर्ष' के स्थान पर प्रतिस्थापित ।

2. Subs. by the Constitution (Eighty-fourth Amendment) Act, 2001, s. 7, for "2000".
3. Ins. by the Constitution (Seventy-second Amendment) Act, 1992, s. 2 (w.e.f. 5-12-1992).
4. Certain words omitted by Act 81 of 1971, s. 71 (w.e.f. 21-1-1972).
5. Ins. by the Constitution (Nineteith Amendment) Act, 2003, s. 2 (w.e.f. 28-9-2003).
6. The words "or Rajpramukh" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.
7. Subs. by the Constitution (Twenty-third Amendment) Act, 1969, s. 4, for certain words (w.e.f. 23-1-1970).
8. Subs. by the Constitution (Seventy-ninth Amendment) Act, 1999, s. 2, for "fifty years" (w.e.f. 25-1-2000).

परंतु इस अनुच्छेद की किसी बात से लोक सभा में या किसी राज्य की विधान सभा में किसी प्रतिनिधित्व पर तब तक कोई प्रभाव नहीं पड़ेगा जब तक, यथास्थिति, उस समय, विद्यमान लोक सभा या विधान सभा का विघटन नहीं हो जाता है ।

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341. अनुसूचित जातियां----(1) राष्ट्रपति [94][किसी राज्य [95][या संघ राज्यक्षेत्र] के संबंध में जहां वह [96]*** राज्य है वहां उसके राज्यपाल [97]*** से परामर्श करने के पश्चात्] लोक अधिसूचना[98] द्वारा, उन जातियों, मूलवंशों या जनजातियों, अथवा जातियों, मूलवंशों या जनजातियों के भागों या उनमें के यूथों को विनिर्दिष्ट कर सकेगा, जिन्हें इस संविधान के प्रयोजनों के लिए, [2][यथास्थिति] उस राज्य [2][या संघ राज्यक्षेत्र] के संबंध में अनुसूचित जातियां समझा जाएगा ।

(2) संसद्, विधि द्वारा, किसी जाति, मूलवंश या जनजाति को अथवा जाति, मूलवंश या जनजाति के भाग या उनमें के यूथ को खंड (1) के अधीन निकाली गई अधिसूचना में विनिर्दिष्ट अनुसूचित जातियों की सूची में सम्मिलित कर सकेगी या उसमें से अपवर्जित कर सकेगी, किन्तु जैसा ऊपर कहा गया है उसके सिवाय उक्त खंड के अधीन निकाली गई अधिसूचना में किसी पश्चात्वर्ती अधिसूचना द्वारा परिवर्तन नहीं किया जाएगा ।

342. अनुसूचित जनजातियां----(1) राष्ट्रपति [99][किसी राज्य [2][या संघ राज्यक्षेत्र] के संबंध में और जहां वह [3]*** राज्य है वहां उसके राज्यपाल [4]*** से परामर्श करने के पश्चात्] लोक अधिसूचना[5] द्वारा, उन जनजातियों, जनजाति समुदायों अथवा जनजातियों या जनजाति समुदायों के भागों या उनमें के यूथों को विनिर्दिष्ट कर सकेगा, जिन्हें इस संविधान के प्रयोजनों के लिए, [2][यथास्थिति] उस राज्य [2][या संघ राज्यक्षेत्र] के संबंध में अनुसूचित जनजातियां समझा जाएगा ।

(2) संसद्, विधि द्वारा, किसी जनजाति, जनजाति समुदाय को अथवा किसी जनजाति, या जनजाति समुदाय के भाग या उसमें के यूथ को खंड (1) के अधीन निकाली गई अधिसूचना में विनिर्दिष्ट अनुसूचित जनजातियों की सूची में सम्मिलित कर सकेगी या उसमें से अपवर्जित कर सकेगी, किन्तु जैसा ऊपर कहा गया है उसके सिवाय उक्त खंड के अधीन निकाली गई अधिसूचना में किसी पश्चात्वर्ती अधिसूचना द्वारा परिवर्तन नहीं किया जाएगा ।

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भाग 18

आपात उपबंध

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[94] संविधान (पहला संशोधन) अधिनियम, 1951 की धारा 10 द्वारा "राज्य के राज्यपाल या राजप्रमुख से परामर्श करने के पश्चात्" के स्थान पर प्रतिस्थापित ।
[95] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा अंतःस्थापित ।
[96] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "पहली अनुसूची के भाग क या भाग ख में विनिर्दिष्ट" शब्दों और अक्षरों का लोप किया गया ।
[97] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "या राजप्रमुख" शब्दों का लोप किया गया ।
[98] निर्वाचन विधि निर्देशिका जिल्द 1 का भाग 3 देखिए ।
[99] संविधान (पहला संशोधन) अधिनियम, 1951 की धारा 11 द्वारा "राज्य के राज्यपाल या राजप्रमुख से परामर्श करने के पश्चात्" के स्थान पर प्रतिस्थापित ।

356. राज्यों में सांविधानिक तंत्र के विफल हो जाने की दशा में उपबंध----(1) यदि राष्ट्रपति का, किसी राज्य के राज्यपाल [4]*** से प्रतिवेदन मिलने पर या अन्यथा, यह समाधान हो जाता है कि ऐसी स्थिति उत्पन्न हो गई है जिसमें उस राज्य का शासन इस संविधान के उपबंधों के अनुसार नहीं चलाया जा सकता है तो राष्ट्रपति उद्घोषणा द्वारा---

(क) उस राज्य की सरकार के सभी या कोई कृत्य और [100][राज्यपाल] में या राज्य के विधान-मंडल से भिन्न राज्य के किसी निकाय या प्राधिकारी में निहित या उसके द्वारा प्रयोक्तव्य सभी या कोई शक्तियां अपनें हाथ में ले सकेगा ;

(ख) यह घोषणा कर सकेगा कि राज्य के विधान-मंडल की शक्तियां संसद् द्वारा या उसके प्राधिकार के अधीन प्रयोक्तव्य होंगी ;

(ग) राज्य के किसी निकाय या प्राधिकारी से संबंधित इस संविधान के किन्हीं उपबंधों के प्रवर्तन को पूर्णतः या भागतः निलंबित करने के लिए उपबंधों सहित ऐसे आनुषंगिक और पारिणामिक उपबंध कर सकेगा जो उद्घोषणा के उद्देश्यों को प्रभावी करने के लिए राष्ट्रपति को आवश्यक या वांछनीय प्रतीत हों :

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

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341. Scheduled Castes.—(1) The President [1][may with respect to any State [2][or Union territory], and where it is a State [3]***, after consultation with the Governors [4]*** thereof,] by public notification[5], specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State [2][or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. Scheduled Tribes.—(1) The President [6][may with respect to any State [2][or Union territory], and where it is a State [3]***, after consultation with the Governor [4]*** thereof,] by public notification[5], specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State [2][or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

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PART XVIII

EMERGENCY PROVISIONS

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356. Provisions in case of failure of constitutional machinery in States.—(1) If the President, on receipt of a report from the Governor [4]*** of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

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[100] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 29 और अनुसूची द्वारा "यथास्थिति, राज्यपाल या राजप्रमुख" के स्थान पर प्रतिस्थापित ।

(*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 [7]*** or any body or authority in the State other than the Legislature of the State;

(*b*) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;

(*c*) make such incidental and consequential provisions as appear to the President 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 the State:

1. Subs. by the Constitution (First Amendment) Act, 1951, s. 10, for "may, after consultation with the Governor or Rajpramukh of a State".
2. Ins. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.
3. The words and letters "specified in Part A or Part B of the First Schedule" omitted by s. 29 and Sch., *ibid*.
4. The words "or Rajpramukh" omitted by s. 29 and Sch., *ibid*.
5. *See* Manual of Election Law, Vol. I, Part III, *infra*.
6. Subs. by the Constitution (First Amendment) Act, 1951, s.11, for "may, after consultation with the Governor or Rajpramukh of a State,".
7. The words "or Rajpramukh, as the case may be" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch.

परंतु इस खंड की कोई बात राष्ट्रपति को उच्च न्यायालय में निहित या उसके द्वारा प्रयोक्तव्य किसी शक्ति को अपने हाथ में लेने या उच्च न्यायालयों से संबंधित इस संविधान के किसी उपबंध के प्रवर्तन को पूर्णतः या भागतः निलंबित करने के लिए प्राधिकृत नहीं करेगी ।

(2) ऐसी कोई उद्घोषणा किसी पश्चात्वर्ती उद्घोषणा द्वारा वापस ली जा सकेगी या उसमें परिवर्तन किया जा सकेगा ।

(3) इस अनुच्छेद के अधीन की गई प्रत्येक उद्घोषणा संसद् के प्रत्येक सदन के समक्ष रखी जाएगी और जहां वह पूर्ववर्ती उद्घोषणा को वापस लेने वाली उद्घोषणा नहीं है वहां वह दो मास की समाप्ति पर प्रवर्तन में नहीं रहेगी यदि उस अवधि की समाप्ति से पहले संसद् के दोनों सदनों के संकल्पों द्वारा उसका अनुमोदन नहीं कर दिया जाता है :

परंतु यदि ऐसी कोई उद्घोषणा (जो पूर्ववर्ती उद्घोषणा को वापस लेने वाली उद्घोषणा नहीं है) उस समय की जाती है जब लोक सभा का विघटन हो गया है या लोक सभा का विघटन इस खंड में निर्दिष्ट दो मास की अवधि के दौरान हो जाता है और यदि उद्घोषणा का अनुमोदन करने वाला संकल्प राज्य सभा द्वारा पारित कर दिया गया है किंतु ऐसी उद्घोषणा के संबंध में कोई संकल्प लोक सभा द्वारा उस अवधि की समाप्ति से पहले पारित नहीं किया गया है तो, उद्घोषणा उस तारीख से जिसको लोक सभा अपने पुनर्गठन के पश्चात् प्रथम बार बैठती है, तीस दिन की समाप्ति पर, प्रवर्तन में नहीं रहेगी यदि उक्त तीस दिन की अवधि की समाप्ति से पहले उद्घोषणा का अनुमोदन करने वाला संकल्प लोक सभा द्वारा भी पारित नहीं कर दिया जाता है ।

(4) इस प्रकार अनुमोदित उद्घोषणा, यदि वापस नहीं ली जाती है तो, [101][ऐसी उद्घोषणा के किए जाने की तारीख से छह मास] की अवधि की समाप्ति पर प्रवर्तन में नहीं रहेगी :

परंतु यदि और जितनी बार ऐसी उद्घोषणा को प्रवृत्त बनाए रखने का अनुमोदन करने वाला संकल्प संसद् के दोनों सदनों द्वारा पारित कर दिया जाता है तो और उतनी बार वह उद्घोषणा, यदि वापस नहीं ली जाती है तो, उस तारीख से जिसको वह इस खंड के अधीन अन्यथा प्रवर्तन में नहीं रहती, [102][छह मास] की और अवधि तक प्रवृत्त बनी रहेगी, किंतु ऐसी उद्घोषणा किसी भी दशा में तीन वर्ष से अधिक प्रवृत्त नहीं रहेगी :

परंतु यह और कि यदि लोक सभा का विघटन [2][छह मास] की ऐसी अवधि के दौरान हो जाता है और ऐसी उद्घोषणा को प्रवृत्त बनाए रखने का अनुमोदन करने वाला संकल्प राज्य सभा द्वारा पारित कर दिया गया है, किंतु ऐसी उद्घोषणा को प्रवृत्त बनाए रखने के संबंध में कोई संकल्प लोक सभा द्वारा उक्त अवधि के दौरान पारित नहीं किया गया है तो, उद्घोषणा उस तारीख से, जिसको लोक सभा अपने पुनर्गठन के पश्चात् प्रथम बार बैठती है, तीस दिन की समाप्ति पर, प्रवर्तन में नहीं रहेगी यदि उक्त तीस दिन की अवधि की समाप्ति से पहले उद्घोषणा को प्रवृत्त बनाए रखने का अनुमोदन करने वाला संकल्प लोक सभा द्वारा भी पारित नहीं कर दिया जाता है :

[103][परन्तु यह भी कि पंजाब राज्य की बाबत 11 मई, 1987 को खंड (1) के अधीन की गई उद्घोषणा की दशा में, इस खंड के पहले परंतुक में तीन वर्ष के प्रति निर्देश का इस प्रकार अर्थ लगाया जाएगा मानों वह [104][पांच वर्ष] के प्रति निर्देश हो ।

[101] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 38 द्वारा (20-6-1979 से) "खंड (3) के अधीन उद्घोषणा का अनुमोदन करने वाले संकल्पों में से दूसरे के पारित हो जाने की तारीख से एक वर्ष" के स्थान पर प्रतिस्थापित ।

[102] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 38 द्वारा (20-6-1979 से) "एक वर्ष" के स्थान पर प्रतिस्थापित ।

[103] संविधान (चौंसठवां संशोधन) अधिनियम, 1990 की धारा 2 द्वारा (16-4-1990 से) अंतःस्थापित ।

[105][(5) खंड (4) में किसी बात के होते हुए भी, खंड (3) के अधीन अनुमोदित उद्घोषणा के किए जाने की तारीख से एक वर्ष की समाप्ति से आगे किसी अवधि के लिए ऐसी उद्घोषणा को प्रवृत्त बनाए रखने के संबंध में कोई संकल्प संसद् के किसी सदन द्वारा तभी पारित किया जाएगा जब---

(क) ऐसे संकल्प के पारित किए जाने के समय आपात की उद्घोषणा, यथास्थिति, सम्पूर्ण भारत में अथवा सम्पूर्ण राज्य या उसके किसी भाग में प्रवर्तन में है; और

(ख) निर्वाचन आयोग यह प्रमाणित कर देता है कि ऐसे संकल्प में विनिर्दिष्ट अवधि के दौरान खंड (3) के अधीन अनुमोदित उद्घोषणा को प्रवृत्त बनाए रखना, संबंधित राज्य की विधान सभा के साधारण निर्वाचन कराने में कठिनाइयों के कारण, आवश्यक है]:

[3][परन्तु इस खंड की कोई बात पंजाब राज्य की बाबत 11 मई, 1987 को खंड (1) के अधीन की गई उद्घोषणा को लागू नहीं होगी ।]

* * * * * *

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 in whole or in part the operation of any provision of this Constitution relating to High Courts.

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

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of [1][six months from the date of issue of the Proclamation]:

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 [2][six 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:

Provided further that if the dissolution of the House of the People takes place during any such period of [2][six months] and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People:

[3][Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in the first proviso to this clause to "three years" shall be construed as a reference to [4][five years].

[5][(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless-

(a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and

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[104] संविधान (सड़सठवां संशोधन) अधिनियम, 1990 की धारा 2 द्वारा (4-10-1990 से) तत्पश्चात् संविधान (अड़सठवां संशोधन) अधिनियम, 1991 की धारा 2 द्वारा (12-3-1991 से) संशोधित होकर वर्तमान रूप में आया ।

[105] संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 38 द्वारा (20-6-1979 से) खंड (5) के स्थान पर प्रतिस्थापित ।

(b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned:]

[3][Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.].

* * * * *

1. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for "one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)" (w.e.f. 20-6-1979).
2. Subs. by s. 38, *ibid*., for "one year" (w.e.f. 20-6-1979).
3. Ins. by the Constitution (Sixty-fourth Amendment) Act, 1990, s. 2.
4. Successively subs. by the Constitution (Sixty-seventh Amendment) Act, 1990, s. 2 (w.e.f. 4-10-1990) and the Constitution (Sixty-eighth Amendment) Act, 1991, s. 2 to read as above (w.e.f. 12-3-1991).
5. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 38, for cl. (5) (w.e.f. 20-6-1979).

[106][**361ख. लाभप्रद राजनीतिक पद पर नियुक्ति के लिए निरर्हता**--किसी राजनीतिक दल का किसी सदन का कोई सदस्य, जो दसवीं अनुसूची के पैरा 2 के अधीन सदन का सदस्य होने के लिए निरर्हित है, अपनी निरर्हता की तारीख से प्रारंभ होने वाली और उस तारीख तक जिसको ऐसे सदस्य के रूप में उसकी पदावधि समाप्त होगी या उस तारीख तक जिसको वह किसी सदन के लिए कोई निर्वाचन लड़ता है और निर्वाचित घोषित किया जाता है, इनमें से जो भी पूर्वतर हो, की अवधि के दौरान कोई लाभप्रद राजनीतिक पद धारण करने के लिए भी निरर्हित होगा ।

स्पष्टीकरण--इस अनुच्छेद के प्रयोजनों के लिए--

(क) "सदन" पद का वही अर्थ है जो उसका दसवीं अनुसूची के पैरा 1 के खंड (क) में है ;

(ख) "लाभप्रद राजनीतिक पद" अभिव्यक्ति से अभिप्रेत है,--

(i) भारत सरकार या किसी राज्य सरकार के अधीन कोई पद, जहां ऐसे पद के लिए वेतन या पारिश्रमिक का संदाय, यथास्थिति, भारत सरकार या राज्य सरकार के लोक राजस्व से किया जाता है ; या

(ii) किसी निकाय के अधीन चाहे निगमित हो या नहीं, जो भारत सरकार या किसी राज्य सरकार के पूर्णतः या भागतः स्वामित्वाधीन है, कोई पद और ऐसे पद के लिए वेतन या पारिश्रमिक का संदाय ऐसे निकाय से किया जाता है,

सिवाय वहां के जहां संदत्त ऐसा वेतन या पारिश्रमिक प्रतिकरात्मक स्वरूप का है ।]

भाग 21

[107][स्थायी, संक्रमणकालीन और विशेष उपबंध]

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[108][**371च. सिक्किम राज्य के संबंध में विशेष उपबंध**----इस संविधान में किसी बात के होते हुए भी,---

(क) सिक्किम राज्य की विधान सभा कम से कम तीस सदस्यों से मिलकर बनेगी ;

(ख) संविधान (छत्तीसवां संशोधन) अधिनियम, 1975 के प्रारंभ की तारीख से (जिसे इस अनुच्छेद में इसके पश्चात् नियत दिन कहा गया है)----

[106] संविधान (इक्यानवेवां संशोधन) अधिनियम, 2003 की धारा 4 द्वारा अंतःस्थापित ।
[107] संविधान (तेरहवां संशोधन) अधिनियम, 1962 की धारा 2 द्वारा (1-12-1963 से) "अस्थायी तथा अंतःकालीन उपबंध" के स्थान पर प्रतिस्थापित ।
[108] संविधान (छत्तीसवां संशोधन) अधिनियम, 1975 की धारा 3 द्वारा (26-4-1975 से) अन्तःस्थापित ।

(i) सिक्किम की विधान सभा, जो अप्रैल, 1974 में सिक्किम में हुए निर्वाचनों के परिणामस्वरूप उक्त निर्वाचनों में निर्वाचित बत्तीस सदस्यों से (जिन्हें इसमें इसके पश्चात् आसीन सदस्य कहा गया है) मिलकर बनी है, इस संविधान के अधीन सम्यक् रूप से गठित सिक्किम राज्य की विधान सभा समझी जाएगी ;

(ii) आसीन सदस्य इस संविधान के अधीन सम्यक् रूप से निर्वाचित सिक्किम राज्य की विधान सभा के सदस्य समझे जाएंगे ; और

(iii) सिक्किम राज्य की उक्त विधान सभा इस संविधान के अधीन राज्य की विधान सभा की शक्तियों का प्रयोग और कृत्यों का पालन करेगी ;

(ग) खंड (ख) के अधीन सिक्किम राज्य की विधान सभा समझी गई विधान सभा की दशा में, अनुच्छेद 172 के खंड (1) में [109][पांच वर्ष] की अवधि के प्रति निर्देशों का यह अर्थ लगाया जाएगा कि वे 4[चार वर्ष] की अवधि के प्रति निर्देश है और [110][चार वर्ष] की उक्त अवधि नियत दिन से प्रारंभ हुई समझी जाएगी ;

(घ) जब तक संसद् विधि द्वारा अन्य उपबंध नहीं करती है तब तक सिक्किम राज्य को लोक सभा में एक स्थान आबंटित किया जाएगा और सिक्किम राज्य एक संसदीय निर्वाचन-क्षेत्र होगा जिसका नाम सिक्किम संसदीय निर्वाचन क्षेत्र होगा ;

[1][**361B. Disqualification for appointment on remunerative political post.—**A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.—For the purposes of this article,—

(*a*) the expression "House" has the meaning assigned to it in clause (*a*) of paragraph 1 of the Tenth Schedule;

(*b*) the expression "remunerative political post" means any office—

(*i*) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or

(*ii*) under a body, whether incorporated or not, which is wholly or partially owned by the Governemnt of India or the Government of a State and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.]

* * * * *

PART XXI

[2][TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS

* * * * *

[3][**371F. Special provisions with respect to the State of Sikkim**.—Notwithstanding anything in this Constitution,—

(*a*) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;

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109 संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 43 द्वारा (6-9-1979 से) "छह वर्ष" के स्थान पर प्रतिस्थापित ।

110 संविधान (चवालीसवां संशोधन) अधिनियम, 1978 की धारा 43 द्वारा (6-9-1979 से) "पांच वर्ष" के स्थान पर प्रतिस्थापित ।

(*b*) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)-

(*i*) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections (hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;

(*ii*) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and

(*iii*) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;

(*d*) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;

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1. Ins. by the Constitution (Ninety-first Amendment) Act, 2003 s. 4 (w.e.f. 1-1-2004).
2. Subs. by the Constitution (Thirteenth Amendment) Act, 1962, s. 2, for "TEMPORARY AND TRANSITIONAL PROVISIONS" (w.e.f. 1-12-1963)
3 Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 3 (w.e.f. 26-4-1975).
4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 43, for "six years" (w.e.f. 6-9-1979).
5. Subs. by s. 43, *ibid*., for "five years" (w.e.f. 6-9-1979).

* * * * * *

(च) संसद् सिक्किम की जनता के विभिन्न अनुभागों के अधिकारों और हितों की संरक्षा करने के प्रयोजन के लिए सिक्किम राज्य की विधान सभा में उन स्थानों की संख्या के लिए जो ऐसे अनुभागों के अभ्यर्थियों द्वारा भरे जा सकेंगे और ऐसे सभा निर्वाचन-क्षेत्रों के परिसीमन के लिए, जिससे केवल ऐसे अनुभागों के अभ्यर्थी ही सिक्किम राज्य की विधान सभा के निर्वाचन के लिए खड़े हो सकेंगे, उपबंध कर सकेगी ।

* * * * * *

[111][**371छ. मिजोरम राज्य के संबंध में विशेष उपबंध**----इस संविधान में किसी बात के होते हुए भी,----]

(क) निम्नलिखित के संबंध में संसद् का कोई अधिनियम मिजोरम राज्य को तब तक लागू नहीं होगा जब तक मिजोरम राज्य की विधान सभा संकल्प द्वारा ऐसा विनिश्चय नहीं करती है, अर्थात् :---

(i) मिजो लोगों की धार्मिक या सामाजिक प्रथाएं ;

(ii) मिजो रूढ़िजन्य विधि और प्रक्रिया ;

(iii) सिविल और दांडिक न्याय प्रशासन, जहां विनिश्चय मिजो रूढ़िजन्य विधि के अनुसार होने हैं ;

(iv) भूमि का स्वामित्व और अंतरण :

परन्तु इस खंड की कोई बात, संविधान (तिरपनवां संशोधन) अधिनियम, 1986 के प्रारंभ से ठीक पहले मिजोरम संघ राज्यक्षेत्र में प्रवृत्त किसी केंद्रीय अधिनियम को लागू नहीं होगी ;

(ख) मिजोरम राज्य की विधान सभा कम से कम चालीस सदस्यों से मिलकर बनेगी ।]

[112][**371ज. अरुणाचल प्रदेश के संबंध में विशेष उपबंध**---इस संविधान में किसी बात के होते हुए भी,---]

(क) अरुणाचल प्रदेश के राज्यपाल का अरुणाचल प्रदेश राज्य में विधि और व्यवस्था के संबंध में विशेष उत्तरदायित्व रहेगा और राज्यपाल, उस संबंध में अपने कृत्यों का निर्वहन करने में की जाने वाली कार्रवाई के बारे में अपने व्यक्तिगत निर्णय का प्रयोग मंत्रि-परिषद् से परामर्श करने के पश्चात् करेगा :

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[111] संविधान (तिरपनवां संशोधन) अधिनियम, 1986 की धारा 2 द्वारा (20-2-1987 से) अन्तःस्थापित ।
[112] संविधान (पचपनवां संशोधन) अधिनियम, 1986 की धारा 2 द्वारा (30-2-1987 से) अन्तःस्थापित ।

परन्तु यदि यह प्रश्न उठता है कि कोई मामला ऐसा मामला है या नहीं जिसके संबंध में राज्यपाल से इस खंड के अधीन अपेक्षा की गई है कि वह अपने व्यक्तिगत निर्णय का प्रयोग करके कार्य करे तो राज्यपाल का अपने विवेक से किया गया विनिश्चय अंतिम होगा और राज्यपाल द्वारा की गई किसी बात की विधिमान्यता इस आधार पर प्रश्नगत नहीं की जाएगी कि उसे अपने व्यक्तिगत निर्णय का प्रयोग करके कार्य करना चाहिए था या नहीं :

परन्तु यह और कि यदि राज्यपाल से प्रतिवेदन मिलने पर या अन्यथा राष्ट्रपति का यह समाधान हो जाता है कि अब यह आवश्यक नहीं है कि अरुणाचल प्रदेश राज्य में विधि और व्यवस्था के संबंध में राज्यपाल का विशेष उत्तरदायित्व रहे तो वह, आदेश द्वारा, निदेश दे सकेगा कि राज्यपाल का ऐसा उत्तरदायित्व उस तारीख से नहीं रहेगा जो आदेश में विनिर्दिष्ट की जाए ;

(ख) अरुणाचल प्रदेश राज्य की विधान सभा कम से कम तीस सदस्यों से मिलकर बनेगी ।]

[113]**[371झ. गोवा राज्य के संबंध में विशेष उपबंध**---इस संविधान में किसी बात के होते हुए भी, गोवा राज्य की विधान सभा कम से कम तीस सदस्यों से मिलकर बनेगी ।]

* * * * * *

* * * * *

(*f*) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

* * * * *

[1][**371G. Special provision with respect to the State of Mizoram.—**Notwithstanding anything in this Constitution,-

(*a*) no Act of Parliament in respect of—

(*i*) religious or social practices of the Mizos,

(*ii*) Mizo customary law and procedure,

(*iii*) administration of civil and criminal justice involving decisions according to Mizo customary law,

(*iv*) ownership and transfer of land,

shall apply to the State of Mizoram unless the Legislative Assembly of the State of Mizoram by a resolution so decides:

Provided that nothing in this clause shall apply to any Central Act in force in the Union territory of Mizoram immediately before the commencement of the Constitution (Fifty-third Amendment) Act, 1986;

(*b*) the Legislative Assembly of the State of Mizoram shall consist of not less than forty members.]

[2][**371H. Special provision with respect to the State of Arunachal Pradesh**.—Notwithstanding anything in this Constitution, —

(*a*) the Governor of Arunachal Pradesh shall have special responsibility with respect to law and order in the State of Arunachal Pradesh and in the discharge of his functions in relation thereto, the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:

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113 संविधान (छप्पनवां संशोधन) अधिनियम, 1987 की धारा 2 द्वारा (30-5-1987 से) अन्तःस्थापित ।

Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment:

Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Arunachal Pradesh, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

(*b*) the Legislative Assembly of the State of Arunachal Pradesh shall consist of not less than thirty members.]

[3][**371-I. Special provision with respect to the State of Goa**.—Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.]

* * * * *

1. Ins. by the Constitution (Fifty-third Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).
2. Ins. by the Constitution (Fifty-fifth Amendment) Act, 1986, s. 2 (w.e.f. 20-2-1987).
3. Ins. by the Constitution (Fifty-sixth Amendment) Act, 1987, s. 2 (w.e.f. 30-5-1987).

तीसरी अनुसूची

[अनुच्छेद 75(4), 99, 124(6), 148(2), 164(3), 188 और 219][†]

शपथ या प्रतिज्ञान के प्ररूप

* * * * * *

[114][3

क

संसद् के लिए निर्वाचन के लिए अभ्यर्थी द्वारा ली जाने वाली शपथ या किए जाने वाले प्रतिज्ञान का प्ररूप :----

"मैं, अमुक, जो राज्य सभा (या लोक सभा) में स्थान भरने के लिए अभ्यर्थी के रूप में नामनिर्देशित हुआ हूं $\frac{\text{ईश्वर की शपथ लेता हूं}}{\text{सत्यनिष्ठा से प्रतिज्ञान करता हूं}}$ कि मैं विधि द्वारा स्थापित भारत के संविधान के प्रति सच्ची श्रद्धा और निष्ठा रखूंगा और मैं भारत की प्रभुता और अखंडता अक्षुण्ण रखूंगा ।"

* * * * * *

* * * * * *

[†] अनुच्छेद 84(क) और 173(क) भी देखिए ।

[114] संविधान (सोलहवां संशोधन) अधिनियम, 1963 की धारा 5 द्वारा प्रतिस्थापित ।

[1][7

क

किसी राज्य के विधान-मंडल के लिए निर्वाचन के लिए अभ्यर्थी द्वारा ली जाने वाली शपथ या किए जाने वाले प्रतिज्ञान का प्ररूप :----

"मैं, अमुक, ______ जो विधान सभा (या विधान परिषद्) में स्थान भरने के लिए अभ्यर्थी के रूप में नामनिर्देशित हुआ हूं ईश्वर की शपथ लेता हूं / सत्यनिष्ठा से प्रतिज्ञान करता हूं कि मैं विधि द्वारा स्थापित भारत के संविधान के प्रति सच्ची श्रद्धा और निष्ठा रखूंगा और मैं भारत की प्रभुता और अखंडता अक्षुण्ण रखूंगा ।"

* * * * * * *]

THIRD SCHEDULE

[Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219]*

Forms of Oaths or Affirmations

* * * * *

[1][III

A

Form of oath or affirmation to be made by a candidate for election to Parliament:--

"I, A.B., having been nominated as a candidate to fill a seat in the Council of States (or the House of the People) do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and I will uphold the sovereignty and integrity of India".

* * * * *]

* * * * *

[2][VII

A

Form of oath or affirmation to be made by a candidate for election to the Legislature of a State:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly or Legislative Council, do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and I will uphold the sovereignty and integrity of India".

*   *   *   *   *]

*   *   *   *   *

* *See* also Articles 84(a) and 173(a).

1. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 5, for Form III.
2. Subs., *ibid.*, s. 5, for Form VII.

[115][चौथी अनुसूची

[अनुच्छेद 4(1) और अनुच्छेद 80(2)]

राज्य सभा में स्थानों का आबंटन

निम्नलिखित सारणी के पहले स्तंभ में विनिर्दिष्ट प्रत्येक राज्य या संघ राज्यक्षेत्र को उतने स्थान आबंटित किए जाएंगे जितने उसके दूसरे स्तंभ में, यथास्थिति, उस राज्य या उस संघ राज्यक्षेत्र के सामने विनिर्दिष्ट हैं ।

सारणी

1. आंध्र प्रदेश	18
2. असम	7
3. बिहार	[116][16]
[117][4. झारखंड	6
[118][[119][5. गोवा	1]
[120][[5][6.] गुजरात	11]
[121][[5][7.] हरियाणा	5]
[5][8.] केरल	9
[5][9.] मध्य प्रदेश	[122][11]
[123][[5][10.] छत्तीसगढ़	5
[124][[5][11.] तमिलनाडु]	[125][18]

[115] संविधान (सातवां संशोधन) अधिनियम, 1956 की धारा 3 द्वारा चौथी अनुसूची के स्थान पर प्रतिस्थापित ।
[116] बिहार पुनर्गठन अधिनियम, 2000 (2000 का 30) की धारा 7 द्वारा (15-11-2000 से) "22" के स्थान पर प्रतिस्थापित ।
[117] बिहार पुनर्गठन अधिनियम, 2000 (2000 का 30) की धारा 7 द्वारा (15-11-2000 से) अंतःस्थापित ।
[118] गोवा, दमण और दीव पुनर्गठन अधिनियम, 1987 (1987 का 18) की धारा 6 द्वारा (30-5-1987 से) अंतःस्थापित ।
[119] बिहार पुनर्गठन अधिनियम, 2000 (2000 का 30) की धारा 7 द्वारा (15-11-2000 से) प्रविष्टि 4 से 29 को क्रमशः प्रविष्टि 5 से 30 के रूप में पुनःसंख्यांकित किया गया ।
[120] मुंबई पुनर्गठन अधिनियम, 1960 (1960 का 11) की धारा 6 द्वारा (1-5-1960 से) प्रविष्टि 4 के स्थान पर प्रतिस्थापित ।
[121] पंजाब पुनर्गठन अधिनियम, 1966 (1966 का 31) की धारा 9 द्वारा (1-11-1966 से) अंतःस्थापित ।
[122] मध्य प्रदेश पुनर्गठन अधिनियम, 2000 (2000 का 28) की धारा 7 द्वारा (1-11-2000 से) "16" के स्थान पर प्रतिस्थापित ।
[123] मध्य प्रदेश पुनर्गठन अधिनियम, 2000 की धारा 7 द्वारा (1-11-2000 से) अंतःस्थापित ।
[124] मद्रास राज्य (नाम-परिवर्तन) अधिनियम, 1968 (1968 का 53) की धारा 5 द्वारा (14-1-1969 से)"11" के स्थान पर प्रतिस्थापित ।
[125] आंध्र प्रदेश और मद्रास राज्य (सीमा-परिवर्तन) अधिनियम, 1959 (1959 का 56) की धारा 8 द्वारा (1-4-1960 से) "17" के स्थान पर प्रतिस्थापित ।

[126][5][12.]	महाराष्ट्र	19]
[127][5][13.]	कर्नाटक]	12
[5][14.]	उड़ीसा	10
[5][15.]	पंजाब	[128][7]
[5][16.]	राजस्थान	10
[5][17.]	उत्तर प्रदेश	[129][31]
[130][5][18.	उत्तरांचल	3
[5][19.	पश्चिमी बंगाल	16
[5][20.]	जम्मू-कश्मीर	4
[131][5][21.]	नागालैंड	1]
[132][5][22.]	हिमाचल प्रदेश	3]
[5][23.]	मणिपुर	1
[5][24.]	त्रिपुरा	1
[5][25.]	मेघालय	1
[133][5][26.]	सिक्किम	1]
[134][5][27.]	मिजोरम	1]
[135][5][28.]	अरूणाचल प्रदेश	1]
[5][29.]	दिल्ली	3
[5][30.	पांडिचेरी	1
	योग :--	**[136][233]]**

* * * *

[1][FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE

1.	Andhra Pradesh	18
2.	Assam	7
3.	Bihar	[2][16]
[3][4	Jharkhand	6]
[4][5][5.]	Goa	1]
[6][5][6.]	Gujarat	11]
[7][5][7.]	Haryana	5]
[5][8.	Kerala	9
[5][9.	Madhya Pradesh	[8][11]
[9][5][10.]	Chhattisgarh	5]
[10][5][11.]	Tamil Nadu]	[11][18]
[12][5][12.]	Maharashtra	19]
[13][5][13.]	Karnataka	12]
[5][14.]	Orissa	10
[5][15.]	Punjab	[14][7]
[5][16.]	Rajasthan	10

[126] मुंबई पुनर्गठन अधिनियम, 1960 (1960 का 11) की धारा 6 द्वारा (1-5-1960 से) अंतःस्थापित ।
[127] मैसूर राज्य (नाम-परिवर्तन) अधिनियम, 1973 (1973 का 31) की धारा 5 द्वारा (1-11-1973 से) "13. मैसूर" के स्थान पर प्रतिस्थापित ।
[128] पंजाब पुनर्गठन अधिनियम, 1966 (1966 का 31) की धारा 9 द्वारा (1-11-1966 से) "11" के स्थान पर प्रतिस्थापित ।
[129] उत्तर प्रदेश पुनर्गठन अधिनियम, 2000 (2000 का 29) की धारा 7 द्वारा (9-11-2000 से) "34" के स्थान पर प्रतिस्थापित ।
[130] उत्तर प्रदेश पुनर्गठन अधिनियम, 2000 की धारा 7 द्वारा (9-11-2000 से) अंतःस्थापित ।
[131] नागालैंड राज्य अधिनियम, 1962 (1962 का 27) की धारा 6 द्वारा (1-12-1963 से) अंतःस्थापित ।
[132] हिमाचल प्रदेश राज्य अधिनियम, 1970 (1970 का 53) की धारा 5 द्वारा (25-1-1971 से) अंतःस्थापित ।
[133] संविधान (छतीसवां संशोधन) अधिनियम, 1975 की धारा 4 द्वारा (26-4-1975 से) अंतःस्थापित ।
[134] मिजोरम राज्य अधिनियम, 1986 (1986 का 34) की धारा 5 द्वारा (20-2-1987 से) अंतःस्थापित ।
[135] अरुणाचल प्रदेश राज्य अधिनियम, 1986 (1986 का 69) की धारा 5 द्वारा (20-2-1987 से) अंतःस्थापित ।
[136] गोवा, दमण और दीव पुनर्गठन अधिनियम, 1987 (1987 का 18) की धारा 6 द्वारा (30-05-1987 से) "232" के स्थान पर प्रतिस्थापित ।

[5][17.]	Uttar Pradesh …………………………………………………………	[15][31]
[16][[5][18.]	Uttaranchal …………………………………………………………	3]
[5][19.]	West Bengal …………………………………………………………	16
[5][20.]	Jammu and Kashmir …………………………………………………	4
[17][[5][21.]	Nagaland …………………………………………………………	1]
[18][[5][22.]	Himachal Pradesh ……………………………………………………	3]
[5][23.]	Manipur …………………………………………………………	1
[5][24.	Tripura …………………………………………………………	1
[5][25.	Meghalaya …………………………………………………………	1
[19][[5][26.]	Sikkim …………………………………………………………	1]
[20][[5][27.]	Mizoram …………………………………………………………	1]
[21][[5][28.]	Arunachal Pradesh ……………………………………………………	1]
[5][29.]	Delhi …………………………………………………………	3
[5][30.]	Pondicherry …………………………………………………………	1
		Total = [22][233]]

1. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 3, for the Fourth Sch.
2. Subs. by the Bihar Reorganisation Act, 2000 (30 of 2000), s.7 for "22" (w.e.f. 15-11-2000).
3. Ins. by s. 7, *ibid*. (w.e.f. 15-11-2000).
4. Ins. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6 (w.e.f. 30-5-1987).
5. Entries 4 to 29 renumbered as entries 5 to 30 by the Bihar Reorganisation Act, 2000 (30 of 2000), s. 7 (w.e.f. 15-11-2000).
6. Subs. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6, for "4" (w.e.f. 1-5-1960).
7. Ins. By the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 (w.e.f. 1-11-1966).
8. Subs. by the Madhya Pradesh Reorganisation Act, 2000 (28 of 2000), s. 7, for "16" (w.e.f. 1-11-2000).
9. Ins. by s. 7, *ibid.* (w.e.f. 1-11-2000).
10. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), s. 5, for "11" (w.e.f. 14-1-1969).
11. Subs. by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8, for "17" (w.e.f. 1-4-11960).
12. Ins. by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6 (w.e.f. 1-5-1960).
13. Subs. by the Mysore State (Alteration of Name) Act, 1973 (31 of 1973), s. 5, for "13" (w.e.f. 1-11-1973).
14. Subs. by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9, for "11" (w.e.f. 1-11-1966).
15. Subs. by the Uttar Pradesh Reorganisation Act, 2000 (29 of 2000), s 7, for "34" (w.e.f. 9-11-2000).
16. Ins. by s.7, *ibid*. (w.e.f. 9-11-2000).
17. Ins. by the State of Nagaland Act, 1962 (27 of 1962), s. 6 (w.e.f. 1-12-1963).
18. Ins. by the State of Himachal Pradesh Act, 1970 (53 of 1970), s. 5 (w.e.f. 25-1-1971).
19. Ins. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4 (w.e.f. 26-4-1975).
20. Ins. by the State of Mizoram Act, 1986 (34 of 1986), s. 5 (w.e.f. 20-2-1987).
21. Ins. by the State of Arunachal Pradesh Act, 1986 (69 of 1986), s. 5 (w.e.f. 20-2-1987).
22. Subs. by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6, for "232" (w.e.f. 30-5-1987).

[137][दसवीं अनुसूची

[अनुच्छेद 102 (2) और अनुच्छेद 191 (2)]

दल परिवर्तन के आधार पर निरर्हता के बारे में उपबंध

1. निर्वचन---- इस अनुसूची में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो ,---

(क) "सदन" से संसद् का कोई सदन या किसी राज्य की, यथास्थिति, विधान सभा या, विधान-मंडल का कोई सदन अभिप्रेत है ;

(ख) सदन के किसी ऐसे सदस्य के संबंध में जो, [138][पैरा 2 या पैरा 4] के उपबंधों के अनुसार किसी राजनीतिक दल का सदस्य है, "विधान-दल" से, उस सदन के ऐसे सभी सदस्यों का समूह अभिप्रेत है जो उक्त उपबंधों के अनुसार तत्समय उस राजनीतिक दल के सदस्य हैं ;

137 संविधान (बावनवां संशोधन) अधिनियम, 1985 की धारा 6 द्वारा (1-3-1985 से) जोड़ा गया ।

138 संविधान (इक्यानवेवां संशोधन) अधिनियम, 2004 की धारा 5(क) द्वारा "यथास्थिति, पैरा 2 या पैरा 3 या पैरा 4" के स्थान पर प्रतिस्थापित ।

(ग) सदन के किसी सदस्य के संबंध में, "मूल राजनीतिक दल" से ऐसा राजनीतिक दल अभिप्रेत है जिसका वह पैरा 2 के उपपैरा (1) के प्रयोजनों के लिए सदस्य है ;

(घ) "पैरा" से इस अनुसूची का पैरा अभिप्रेत है ।

2. दल परिवर्तन के आधार पर निरर्हता----(1) [139][पैरा 4 और पैरा 5] के उपबंधों के अधीन रहते हुए, सदन का कोई सदस्य, जो किसी राजनीतिक दल का सदस्य है, सदन का सदस्य होने के लिए उस दशा में निरर्हित होगा, जिसमें---

(क) उसने ऐसे राजनीतिक दल की अपनी सदस्यता स्वेच्छा से छोड़ दी है ; या

(ख) वह ऐसे राजनीतिक दल द्वारा जिसका वह सदस्य है अथवा उसके द्वारा इस निमित्त प्राधिकृत किसी व्यक्ति या प्राधिकारी द्वारा दिए गए किसी निदेश के विरुद्ध, ऐसे राजनीतिक दल, व्यक्ति या प्राधिकारी की पूर्व अनुज्ञा के बिना, ऐसे सदन में मतदान करता है या मतदान करने से विरत रहता है और ऐसे मतदान या मतदान करने से विरत रहने को ऐसे राजनीतिक दल, व्यक्ति या प्राधिकारी ने ऐसे मतदान या मतदान करने से विरत रहने की तारीख से पंद्रह दिन के भीतर माफ नहीं किया है ।

स्पष्टीकरण---इस उपपैरा के प्रयोजनों के लिए,---

(क) सदन के किसी निर्वाचित सदस्य के बारे में यह समझा जाएगा कि वह ऐसे राजनीतिक दल का, यदि कोई हो, सदस्य है जिसने उसे ऐसे सदस्य के रूप में निर्वाचन के लिए अभ्यर्थी के रूप में खड़ा किया था ;

(ख) सदन के किसी नामनिर्देशित सदस्य के बारे में,---

(i) उस दशा में, जिसमें वह ऐसे सदस्य के रूप में अपने नामनिर्देशन की तारीख को किसी राजनीतिक दल का सदस्य है, यह समझा जाएगा कि वह ऐसे राजनीतिक दल का सदस्य है;

(ii) किसी अन्य दशा में, यह समझा जाएगा कि वह उस राजनीतिक दल का सदस्य है जिसका, यथास्थिति, अनुच्छेद 99 या अनुच्छेद 188 की अपेक्षाओं का अनुपालन करने के पश्चात् अपना स्थान ग्रहण करने की तारीख से छह मास ही समाप्ति के पूर्व वह, यथास्थिति, सदस्य बनता है या पहली बार बनता है ।

(2) सदन का कोई निर्वाचित सदस्य, जो किसी राजनीतिक दल द्वारा खड़े किए गए अभ्यर्थी से भिन्न रूप में सदस्य निर्वाचित हुआ है, सदन का सदस्य होने के लिए निरर्हित होगा यदि वह ऐसे निर्वाचन के पश्चात् किसी राजनीतिक दल में सम्मिलित हो जाता है ।

*   *   *   *   *

[1][**TENTH SCHEDULE**

[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. Interpretation.— In this Schedule, unless the context otherwise requires,--

(*a*) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(*b*) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or [2]*** paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(*c*) "original political party", in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (*1*) of paragraph 2;

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[139] संविधान (इक्यानवेवां संशोधन) अधिनियम, 2004 की धारा 5(ख) द्वारा "पैरा 3, पैरा 4 और पैरा 5" के स्थान पर प्रतिस्थापित ।

(*d*) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.—(*1*) Subject to the provisions of [3][paragraphs 4 and 5], a member of a House belonging to any political party shall be disqualified for being a member of the House—

(*a*) if he has voluntarily given up his membership of such political party; or

(*b*) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph,--

(*a*) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(*b*) a nominated member of a House shall,--

(*i*) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(*ii*) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(*2*) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

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1. Added by the Constitution (Fifty-second Amendment) Act, 1985, s. 6 (w.e.f. 1-3-1985).
2. The words "paragraph 3 or, as the case may be," omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5(*a*).
3. Subs. by s. 5(*b*) *ibid*., for "paragraphs 3, 4 and 5".

(3) सदन का कोई नामनिर्देशित सदस्य, सदन का सदस्य होने के लिए निरर्हित होगा यदि वह, यथास्थिति, अनुच्छेद 99 या अनुच्छेद 188 की अपेक्षाओं का अनुपालन करने के पश्चात् अपना स्थान ग्रहण करने की तारीख से छह मास की समाप्ति के पश्चात् किसी राजनीतिक दल में सम्मिलित हो जाता है ।

(4) इस पैरा के पूर्वगामी उपबंधों में किसी बात के होते हुए भी, किसी ऐसे व्यक्ति के बारे में जो, संविधान (बावनवां संशोधन) अधिनियम, 1985 के प्रारंभ पर, सदन का सदस्य है (चाहे वह निर्वाचित सदस्य हो या नामनिर्देशित)---

(i) उस दशा में, जिसमें वह ऐसे प्रारंभ से ठीक पहले किसी राजनीतिक दल का सदस्य था वहां, इस पैरा के उपपैरा (1) के प्रयोजनों के लिए, यह समझा जाएगा कि वह ऐसे राजनीतिक दल द्वारा खड़े किए गए अभ्यर्थी के रूप में ऐसे सदन का सदस्य निर्वाचित हुआ है ;

(ii) किसी अन्य दशा में, यथास्थिति, इस पैरा के उपपैरा (2) के प्रयोजनों के लिए, यह समझा जाएगा कि वह सदन का ऐसा निर्वाचित सदस्य है जो किसी राजनीतिक दल द्वारा खड़े किए गए अभ्यर्थी से भिन्न रूप में सदस्य निर्वाचित हुआ है या, इस पैरा के उपपैरा (3) के प्रयोजनों के लिए, यह समझा जाएगा कि वह सदन का नामनिर्देशित सदस्य है

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4. दल परिवर्तन के आधार पर निरर्हता का विलय की दशा में लागू न होना---(1) सदन का कोई सदस्य पैरा 2 के उपपैरा (1) के अधीन निरर्हित नहीं होगा यदि उसके मूल राजनीतिक दल का किसी अन्य राजनीतिक दल में विलय हो जाता है और वह यह दावा करता है कि वह और उसके मूल राजनीतिक दल के अन्य सदस्य---

(क) यथास्थिति, ऐसे अन्य राजनीतिक दल के या ऐसे विलय से बने नए राजनीतिक दल के सदस्य बन गए है; या

(ख) उन्होंने विलय स्वीकार नहीं किया है और एक पृथक् समूह के रूप में कार्य करने का विनिश्चय किया है,

और ऐसे विलय के समय से, यथास्थिति, ऐसे अन्य राजनीतिक दल या नए राजनीतिक दल या समूह के बारे में यह समझा जाएगा कि वह, पैरा 2 के उपपैरा (1) के प्रयोजनों के लिए, ऐसा राजनीतिक दल है जिसका वह सदस्य है और वह इस उपपैरा के प्रयोजनों के लिए उसका मूल राजनीतिक दल है ।

(2) इस पैरा के उपपैरा (1) के प्रयोजनों के लिए, सदन के किसी सदस्य के मूल राजनीतिक दल का विलय हुआ तभी समझा जाएगा जब संबंधित विधान-दल के कम से कम दो तिहाई सदस्य ऐसे विलय के लिए सहमत हो गए हैं ।

(*3*) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(*4*) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall,--

(*i*) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (*1*) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(*ii*) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-

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[140] संविधान (इक्यानवेवां संशोधन) अधिनियम, 2004 की धारा 5(ग) द्वारा पैरा 3 का लोप किया गया ।

paragraph (*2*) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (*3*) of this paragraph.

[1]* * * * *

4. Disqualification on ground of defection not to apply in case of merger.—(*1*) A member of a House shall not be disqualified under sub-paragraph (*1*) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party—

(*a*) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (*1*) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(*2*) For the purposes of sub-paragraph (*1*) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

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1. Paragraph 3 omitted by the Constitution (Ninety-first Amendment) Act, 2003, s. 5(*c*).

5. छूट----इस अनुसूची में किसी बात के होते हुए भी, कोई व्यक्ति, जो लोक सभा के अध्यक्ष या उपाध्यक्ष अथवा राज्य सभा के उपसभापति अथवा किसी राज्य की विधान परिषद् के सभापति या उपसभापति अथवा किसी राज्य की विधान सभा के अध्यक्ष या उपाध्यक्ष के पद पर निर्वाचित हुआ है, इस अनुसूची के अधीन निरर्हित नहीं होगा,---

(क) यदि वह, ऐसे पद पर अपने निर्वाचन के कारण ऐसे राजनीतिक दल की जिसका वह ऐसे निर्वाचन से ठीक पहले सदस्य था, अपनी सदस्यता स्वेच्छा से छोड़ देता है और उसके पश्चात् जब तक वह पद धारण किए रहता है तब तक, उस राजनीतिक दल में पुनः सम्मिलित नहीं होता है या किसी दूसरे राजनीतिक दल का सदस्य नहीं बनता है ; या

(ख) यदि वह, ऐसे पद पर अपने निर्वाचन के कारण, ऐसे राजनीतिक दल की जिसका वह ऐसे निर्वाचन से ठीक पहले सदस्य था, अपनी सदस्यता छोड़ देता है और ऐसे पद पर न रह जाने के पश्चात् ऐसे राजनीतिक दल में पुनः सम्मिलित हो जाता है ।

6. दल परिवर्तन के आधार पर निरर्हता के बारे में प्रश्नों का विनिश्चय---(1) यदि यह प्रश्न उठता है कि सदन का कोई सदस्य इस अनुसूची के अधीन निरर्हता से ग्रस्त हो गया है या नहीं तो वह प्रश्न ऐसे सदन के, यथास्थिति, सभापति या अध्यक्ष के विनिश्चय के लिए निर्देशित किया जाएगा और उसका विनिश्चय अंतिम होगा :

परन्तु जहां यह प्रश्न उठता है कि सदन का सभापति या अध्यक्ष निरर्हता से ग्रस्त हो गया है या नहीं वहां वह प्रश्न सदन के ऐसे सदस्य के विनिश्चय के लिए निर्देशित किया जाएगा जिसे वह सदन इस निमित्त निर्वाचित करे और उसका विनिश्चय अंतिम होगा ।

(2) इस अनुसूची के अधीन सदन के किसी सदस्य की निरर्हता के बारे में किसी प्रश्न के संबंध में इस पैरा के उपपैरा (1) के अधीन सभी कार्यवाहियों के बारे में यह समझा जाएगा कि वे, यथास्थिति, अनुच्छेद 122 के अर्थ में संसद् की कार्यवाहियां हैं या अनुच्छेद 212 के अर्थ में राज्य के विधान-मंडल की कार्यवाहियां हैं ।

7. न्यायालयों की अधिकारिता का वर्जन––इस संविधान में किसी बात के होते हुए भी, किसी न्यायालय को इस अनुसूची के अधीन सदन के किसी सदस्य की निरर्हता से संबंधित किसी विषय के बारे में कोई अधिकारिता नहीं होगी ।

8. नियम---(1) इस पैरा के उपपैरा (2) के उपबंधों के अधीन रहते हुए, सदन का सभापति या अध्यक्ष, इस अनुसूची के उपबंधों को कार्यान्वित करने के लिए नियम बना सकेगा तथा विशिष्टतया और पूर्वगामी शक्ति की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, ऐसे नियमों में निम्नलिखित के लिए उपबंध किया जा सकेगा, अर्थात् :----

(क) सदन के विभिन्न सदस्य जिन राजनीतिक दलों के सदस्य हैं, उनके बारे में रजिस्टर या अन्य अभिलेख रखना ;

(ख) ऐसा प्रतिवेदन जो सदन के किसी सदस्य के संबंध में विधान-दल का नेता, उस सदस्य की बाबत पैरा 2 के उपपैरा (1) के खंड (ख) में निर्दिष्ट प्रकृति की माफी के संबंध में देगा, वह समय जिसके भीतर वह प्राधिकारी जिसको ऐसा प्रतिवेदन दिया जाएगा ;

(ग) ऐसे प्रतिवेदन जिन्हें कोई राजनीतिक दल सदन के किसी सदस्य को ऐसे राजनीतिक दल में प्रविष्ट करने के संबंध में देगा और सदन का ऐसा अधिकारी जिसको ऐसे प्रतिवेदन दिए जांएगे ; और

(घ) पैरा 6 के उपपैरा (1) में निर्दिष्ट किसी प्रश्न का विनिश्चय करने की प्रक्रिया जिसके अंतर्गत ऐसी जांच की प्रक्रिया है, जो ऐसे प्रश्न का विनिश्चय करने के प्रयोजन के लिए की जाए ।

(2) सदन के सभापति या अध्यक्ष द्वारा इस पैरा के उपपैरा (1) के अधीन बनाए गए नियम, बनाए जाने के पश्चात् यथाशीघ्र, सदन के समक्ष, कुल तीस दिन की अवधि के लिए रखे जाएंगे । यह अवधि एक सत्र में अथवा दो या अधिक आनुक्रमिक सत्रों में पूरी हो सकेगी । वे नियम तीस दिन की उक्त अवधि की समाप्ति पर प्रभावी होंगे जब तक कि उनका सदन द्वारा परिवर्तनों सहित या उनके बिना पहले ही अनुमोदन या अननुमोदन नहीं कर दिया जाता है । यदि वे नियम इस प्रकार अनुमोदित कर दिए जाते हैं तो वे, यथास्थिति, ऐसे रूप में जिसमें वे रखे गए थे या ऐसे परिवर्तित रूप में ही प्रभावी होंगे । यदि नियम इस प्रकार अनुमोदित कर दिए जाते हैं तो वे निष्प्रभाव हो जाएंगे ।

5. Exemption.—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,--

(*a*) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(*b*) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to disqualification on ground of defection.—(*1*) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(*2*) All proceedings under sub-paragraph (*1*) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. Bar of jurisdiction of courts.—Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. Rules.—(*1*) Subject to the provisions of sub-paragraph (*2*) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for–

(*a*) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(*b*) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (*b*) of sub-paragraph (*1*) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(*c*) the report, which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such report shall be furnished; and

(*d*) the procedure for deciding any question referred to in sub-paragraph (*1*) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(*2*) The rules made by the Chairman or the Speaker of a House under sub-paragraph (*1*) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) सदन का सभापति या अध्यक्ष, यथास्थिति, अनुच्छेद 105 या अनुच्छेद 194 के उपबंधों पर और किसी ऐसी, अन्य शक्ति पर जो उसे इस संविधान के अधीन प्राप्त है, प्रतिकूल प्रभाव डाले बिना, यह निदेश दे सकेगा कि इस पैरा के अधीन बनाए गए नियमों के किसी व्यक्ति द्वारा जानबूझकर किए गए किसी उल्लंघन के बारे में उसी रीति से कार्रवाई की जाए जिस रीति से सदन के विशेषाधिकार के भंग के बारे में की जाती है ।]

* * * *

(*3*) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.]

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भाग 2

संसद् के अधिनियम

भारतीय दण्ड संहिता (1860 का अधिनियम संख्यांक 45) से उद्धरण

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[1][**153क. धर्म, मूलवंश, भाषा, जन्म-स्थान, निवास-स्थान इत्यादि के आधारों पर विभिन्न समूहों के बीच शत्रुता का संप्रर्वतन और सौहार्द्र बने रहने पर प्रतिकूल प्रभाव डालने वाले कार्य करना**---(1) जो कोई---

(क) बोले गए या लिखे गए शब्दों द्वारा या संकेतों द्वारा या दृश्यरूपणों द्वारा या अन्यथा विभिन्न धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूहों, जातियों या समुदायों के बीच असौहार्द्र अथवा शत्रुता, घृणा या वैमनस्य की भावनाएं, धर्म, मूलवंश, जन्म-स्थान, निवास-स्थान, भाषा, जाति या समुदाय के आधारों पर या अन्य किसी भी आधार पर संप्रवर्तित करेगा या संप्रवर्तित करने का प्रयत्न करेगा, अथवा

(ख) कोई ऐसा कार्य करेगा जो विभिन्न धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूहों या जातियों या समुदायों के बीच सौहार्द्र बने रहने पर प्रतिकूल प्रभाव डालने वाला है और लोक-प्रशान्ति में विघ्न डालता है या जिससे उसमें विघ्न पड़ना संभाव्य हो ; [2][अथवा]

(ग) कोई ऐसा अभ्यास, आन्दोलन, कवायद या अन्य वैसा ही क्रियाकलाप इस आशय से संचालित करेगा कि ऐसे क्रियाकलाप में भाग लेने वाले व्यक्ति किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के विरुद्ध आपराधिक बल या हिंसा का प्रयोग करेंगे या प्रयोग करने के लिए प्रशिक्षित किए जाएंगे या यह सम्भाव्य जानते हुए संचालित करेगा कि ऐसे क्रियाकलाप में भाग लेने वाले व्यक्ति किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के विरुद्ध आपराधिक बल या हिंसा का प्रयोग करेंगे या प्रयोग करने के लिए प्रशिक्षित किए जाएंगे अथवा ऐसे क्रियाकलाप में इस आशय से भाग लेगा कि किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के विरुद्ध आपराधिक बल या हिंसा का प्रयोग करे या प्रयोग करने के लिए प्रशिक्षित किया जाए या यह संभाव्य जानते हुए भाग लेगा कि ऐसे क्रियाकलाप में भाग लेने वाले व्यक्ति किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के विरुद्ध आपराधिक बल या हिंसा का प्रयोग करेंगे या प्रयोग करने के लिए प्रशिक्षित किए जाएंगे और ऐसे क्रियाकलाप से ऐसे धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के सदस्यों के बीच, चाहे किसी भी कारण से, भय या संत्रास या असुरक्षा की भावना उत्पन्न होती है या उत्पन्न होनी सम्भाव्य है,

वह कारावास से जिसकी अवधि तीन वर्ष तक की हो सकेगी, या जुर्माने से, या दोनों से दंडित किया जाएगा ।

(2) **पूजा के स्थान आदि में किया गया अपराध**---जो कोई उपधारा (1) में विनिर्दिष्ट अपराध किसी पूजा के स्थान में या किसी जमाव में जो धार्मिक पूजा या धार्मिक कर्म करने में लगा हो, करेगा, वह कारावास से जो पांच वर्ष तक का हो सकेगा दंडित किया जाएगा और जुर्माने से भी दंडनीय होगा ।

[2][**153ख. राष्ट्रीय अखण्डता पर प्रतिकूल प्रभाव डालने वाले लांछन, प्राख्यान**---(1) जो कोई बोले गए या लिखे गए शब्दों द्वारा या संकेत द्वारा या दृश्यरूपणों द्वारा या अन्यथा---

(क) ऐसा कोई लांछन लगाएगा या प्रकाशित करेगा कि किसी वर्ग के व्यक्ति इस कारण से कि वे किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के सदस्य हैं, विधि द्वारा स्थापित भारत के संविधान के प्रति सच्ची श्रद्धा और निष्ठा नहीं रख सकते या भारत की प्रभुता और अखण्डता की मर्यादा नहीं बनाए रख सकते, अथवा

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[1] 1969 के अधिनियम सं0 35 की धारा 2 द्वारा धारा 153क के स्थान पर प्रतिस्थापित ।

[2] 1972 के अधिनियम सं0 31 की धारा 2 द्वारा अंतःस्थापित ।

PART II

ACTS OF PARLIAMENT

EXTRACTS FROM THE INDIAN PENAL CODE

ACT NO. 45 OF 1860

* * * * *

[1][**153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**—(*1*) Whoever—

(*a*) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(*b*) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, [2][or]

(*c*) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to the use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.—(*2*) Whoever commits an offence specified in sub-section (*1*) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

[2][**153B. Imputations, assertions prejudicial to national integration.**—(*1*) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, —

(*a*) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

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1. Subs. by Act 35 of 1969, s. 2, for s. 153A.
2. Ins. by Act 31 of 1972, s. 2.

(ख) यह प्राख्यान करेगा, परामर्श देगा, सलाह देगा, प्रचार करेगा या प्रकाशित करेगा कि किसी वर्ग के व्यक्ति को, इस कारण कि वे किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के सदस्य हैं, भारत के नागरिक के रूप में उनके अधिकार न दिए जाएं या उन्हें उनसे वंचित किया जाए, अथवा

(ग) किसी वर्ग के व्यक्तियों की, बाध्यता के संबंध में, इस कारण कि वे किसी धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूह या जाति या समुदाय के सदस्य हैं कोई प्राख्यान करेगा, परामर्श देगा, अभिवाक् करेगा या अपील करेगा अथवा प्रकाशित करेगा और ऐसे प्राख्यान, परामर्श, अभिवाक् या अपील से ऐसे सदस्यों तथा अन्य व्यक्तियों के बीच असामंजस्य अथवा शत्रुता या घृणा या वैमनस्य की भावनाएं उत्पन्न होती हैं या उत्पन्न होनी संभाव्य हैं,

वह कारावास से, जो तीन वर्ष तक का हो सकेगा, या जुर्माने से, अथवा दोनों से, दंडित किया जाएगा ।

(2) जो कोई उपधारा (1) में विनिर्दिष्ट कोई अपराध किसी उपासना स्थल में या धार्मिक उपासना अथवा धार्मिक कर्म करने में लगे हुए किसी जमाव में करेगा वह कारावास से, जो पांच वर्ष तक का हो सकेगा, दंडित किया जाएगा और जुर्माने से भी दंडनीय होगा ।

* * * * *

[3][**अध्याय 9क**

निर्वाचन संबंधी अपराधों के विषय में

171क. "अभ्यर्थी", "निर्वाचन अधिकार" परिभाषित----इस अध्याय के प्रयोजनों के लिए---

[4][(क) "अभ्यर्थी" से वह व्यक्ति अभिप्रेत है जो किसी निर्वाचन में अभ्यर्थी के रूप में नामनिर्दिष्ट किया गया है;]

(ख) "निर्वाचन अधिकार" से किसी निर्वाचन में अभ्यर्थी के रूप में खड़े होने या खड़े न होने या अभ्यर्थना से अपना नाम वापस लेने या मत देने या मत देने से विरत रहने का किसी व्यक्ति का अधिकार अभिप्रेत है ।

171ख. रिश्वत---(1) जो कोई ---

(i) किसी व्यक्ति को इस उद्देश्य से परितोष देता है कि वह उस व्यक्ति को या किसी अन्य व्यक्ति को किसी निर्वाचन अधिकार का प्रयोग करने के लिए उत्प्रेरित करे या किसी व्यक्ति को इसलिए इनाम दे कि उसने ऐसे अधिकार का प्रयोग किया है, अथवा

(ii) स्वयं अपने लिए या किसी अन्य व्यक्ति के लिए कोई परितोषण ऐसे किसी अधिकार को प्रयोग में लाने के लिए या किसी अन्य व्यक्ति को ऐसे किसी अधिकार को प्रयोग में लाने के लिए उत्प्रेरित करने या उत्प्रेरित करने का प्रयत्न करने के लिए इनाम के रूप में प्रतिगृहीत करता है,

वह रिश्वत का अपराध करता है :

परन्तु लोक नीति की घोषणा या लोक कार्यवाही का वचन इस धारा के अधीन अपराध न होगा ।

(2) जो व्यक्ति परितोषण देने की प्रस्थापना करता है या देने को सहमत होता है या उपाप्त करने की प्रस्थापना या प्रयत्न करता है, यह समझा जाएगा कि वह परितोषण देता है ।

(3) जो व्यक्ति परितोषण अभिप्राप्त करता है या प्रतिगृहीत करने को सहमत होता है या अभिप्राप्त करने का प्रयत्न करता है, यह समझा जाएगा कि वह परितोषण प्रतिगृहीत करता है और जो व्यक्ति वह बात करने के लिए जिसे करने का उसका आशय नहीं है, हेतुस्वरूप, या जो बात उसने नहीं की है उसे करने के लिए इनाम के रूप में परितोषण प्रतिगृहीत करता है, यह समझा जाएगा कि उसने परितोषण को इनाम के रूप में प्रतिगृहीत किया है ।

171ग. निर्वाचनों में असम्यक् असर डालना---(1) जो कोई किसी निर्वाचन अधिकार के निर्बाध प्रयोग में स्वेच्छया हस्तक्षेप करता है या हस्तक्षेप करने का प्रयत्न करता है वह निर्वाचन में असम्यक् असर डालने का अपराध करता है ।

[3] 1920 के अधिनियम सं0 39 की धारा 2 द्वारा अन्तःस्थापित ।
[4] 1975 के अधिनियम सं0 40 की धारा 9 द्वारा (6-8-1975 से) खण्ड (क) के स्थान पर प्रतिस्थापित ।

(*b*) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(*c*) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(*2*) Whoever commits an offence specified in sub-section (*1*), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

*   *   *   *   *

[1][CHAPTER IX A
OF OFFENCES RELATING TO ELECTIONS

171A. "Candidate", "Electoral right" defined. —For the purposes of this Chapter—

[2][(*a*) "candidate" means a person who has been nominated as a candidate at any election;]

(*b*) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

171B. Bribery.—(*1*) Whoever—

(*i*) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercise any such right; or

(*ii*) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(*2*) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(*3*) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

171 . Undue influence a elec ion . (1) Whoever volun arilyÉÂ in erfere or a emp o in erfere wiÉÂ hÉÂ he free exerciÉÂ e of anyÉÂ elec oralÉÂ righÉÂ commiÉÂ he offence of undue influence a an elec ion.

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1. स्वदद्द उन्न एहट 39 दृढ 1920, द्द 2.
2. Subs. by Act 40 of 1975, s. 9, for cl. (*a*) (w.e.f. 6-8-1975).

भारतीय दंड संहिता से उद्धरण

(भाग 2--संसद् के अधिनियम)

(2) उपधारा (1) के उपबंधों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, जो कोई--

(क) किसी अभ्यर्थी या मतदाता को, या किसी ऐसे व्यक्ति को जिससे अभ्यर्थी या मतदाता हितबद्ध है, किसी प्रकार की क्षति करने की धमकी देता है, अथवा

(ख) किसी अभ्यर्थी या मतदाता को यह विश्वास करने के लिए उत्प्रेरित करता है या उत्प्रेरित करने का प्रयत्न करता है कि वह या कोई ऐसा व्यक्ति, जिससे वह हितबद्ध है, दैवी अप्रसाद या आध्यात्मिक परिनिन्दा का भाजन हो जाएगा या बना दिया जाएगा,

यह समझा जाएगा कि वह उपधारा (1) के अर्थ के अन्तर्गत ऐसे अभ्यर्थी या मतदाता के निर्वाचन अधिकार के निर्बाध प्रयोग में हस्तक्षेप करता है ।

(3) लोक नीति की घोषणा या लोक कार्यवाही का वचन या किसी वैध अधिकार का प्रयोग मात्र, जो किसी निर्वाचन अधिकार में हस्तक्षेप करने के आशय के बिना है, इस धारा के अर्थ के अन्तर्गत हस्तक्षेप करना नहीं समझा जाएगा ।

171घ. निर्वाचनों में प्रतिरूपण--- जो कोई किसी निर्वाचन में किसी अन्य व्यक्ति के नाम से, चाहे वह जीवित हो या मृत, या किसी कल्पित नाम से, मतपत्र के लिए आवेदन करता या मत देता है, या ऐसे निर्वाचन में एक बार मत दे चुकने के पश्चात् उसी निर्वाचन में अपने नाम से मतपत्र के लिए आवेदन करता है और जो कोई किसी व्यक्ति द्वारा किसी ऐसे प्रकार से मतदान को दुष्प्रेरित करता है, उपाप्त करता है, या उपाप्त करने का प्रयत्न करता है, वह निर्वाचन में प्रतिरूपण का अपराध करता है :

[5][परन्तु इस धारा की कोई बात किसी ऐसे व्यक्ति को लागू नहीं होगी जिसे तत्समय प्रवृत्त किसी विधि के अधीन मतदाता की ओर से, जहां तक वह ऐसे मतदाता की ओर से परोक्षी के रूप में मत देता है, परोक्षी के रूप में मत देने के लिए प्राधिकृत किया गया है ।]

171ङ. रिश्वत के लिए दंड--- जो कोई रिश्वत का अपराध करेगा, वह दोनों में से किसी भांति के कारावास से, जिसकी अवधि एक वर्ष तक की हो सकेगी, या जुर्माने से, या दोनों से, दण्डित किया जाएगा :

परन्तु सत्कार के रूप में रिश्वत केवल जुर्माने से ही दण्डित की जाएगी ।

स्पष्टीकरण-- "सत्कार" से रिश्वत का वह रूप अभिप्रेत है जो परितोषण खाद्य, पेय, मनोरंजन या रसद के रूप में है ।

171च. निर्वाचन में असम्यक् असर डालने या प्रतिरूपण के लिए दंड-- जो कोई किसी निर्वाचन में असम्यक् असर डालने या प्रतिरूपण का अपराध करेगा, वह दोनों में से किसी भांति के कारावास से, जिसकी अवधि एक वर्ष तक की हो सकेगी, या जुर्माने से, या दोनों से, दंडित किया जाएगा ।

171छ. निर्वाचन के सिलसिले में मिथ्या कथन-- जो कोई निर्वाचन के परिणाम पर प्रभाव डालने के आशय से किसी अभ्यर्थी के वैयक्तिक शील या आचरण के संबंध में तथ्य का कथन तात्पर्यित होने वाला कोई ऐसा कथन करेगा या प्रकाशित करेगा, जो मिथ्या है, और जिसका मिथ्या होना वह जानता है या विश्वास करता है अथवा जिसके सत्य होने का वह विश्वास नहीं करता है, वह जुर्माने से दंडित किया जाएगा ।

171ज. निर्वाचन के सिलसिले में अवैध संदाय--- जो कोई किसी अभ्यर्थी के साधारण या विशेष लिखित प्राधिकार के बिना ऐसे अभ्यर्थी का निर्वाचन अग्रसर करने या निर्वाचन करा देने के लिए कोई सार्वजनिक सभा करने में या किसी विज्ञापन, परिपत्र या प्रकाशन पर, या किसी भी अन्य ढंग से व्यय करेगा या करना प्राधिकृत करेगा, वह जुर्माने से, जो पांच सौ रुपए तक का हो सकेगा, दंडित किया जाएगा :

परन्तु यदि कोई व्यक्ति, जिसने प्राधिकार के बिना कोई ऐसे व्यय किए हों, जो कुल मिलाकर दस रुपए से अधिक न हों, उस तारीख से जिस तारीख को ऐसे व्यय किए गए हों, दस दिन के भीतर उस अभ्यर्थी का लिखित अनुमोदन अभिप्राप्त कर ले, तो यह समझा जाएगा कि उसने ऐसे व्यय उस अभ्यर्थी के प्राधिकार से किए हैं ।

171झ. निर्वाचन लेखा रखने में असफलता--- जो कोई किसी तत्समय प्रवृत्त विधि द्वारा या विधि का बल रखने वाले किसी नियम द्वारा इसके लिए अपेक्षित होते हुए कि वह निर्वाचन में या निर्वाचन के संबंध में किए गए व्ययों का लेखा रखे, ऐसा लेखा रखने में असफल रहेगा, वह जुर्माने से, जो पांच सौ रुपए तक का हो सकेगा, दंडित किया जाएगा।]

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(*2*) Without prejudice to the generality of the provisions of sub-section (*1*), whoever—

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[5] 2003 के अधिनियम सं0 24 की धारा 5 द्वारा (22-9-2003 से) अंतःस्थापित ।

(*a*) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(*b*) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual pleasure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (*1*).

(*3*) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171D. Personation at elections.—Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:

[1][Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.]

171E. Punishment for bribery.—Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, of with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

171F. Punishment for undue influence or personation at an election.—Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

171G. False statement in connection with an election.—Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

171H. Illegal payments, in connection with an election.—Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

171-I. Failure to keep election accounts.—Whoever being recruited by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

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1. Ins. by Act 24 of 2003, s. 5 (w.e.f. 22-9-2003).

भारतीय दंड संहिता से उद्धरण

(भाग 2--संसद् के अधिनियम)

[6]**[505. लोक रिष्टिकारक वक्तव्य---** (1) जो कोई किसी कथन, जनश्रुति या रिपोर्ट को,---

(क) इस आशय से कि, या जिससे यह संभाव्य हो कि, भारत की सेना, नौसेना या वायुसेना का कोई आफिसर, सैनिक, नाविक या वायुसैनिक विद्रोह करे, या अन्यथा वह अपने उस नाते अपने कर्तव्य की अवहेलना करे या, उसके पालन में असफल रहे, अथवा

(ख) इस आशय से कि, या जिससे वह सम्भाव्य हो कि, लोक या लोक के किसी भाग को ऐसा भय या संत्रासकारित हो जिससे कोई व्यक्ति राज्य के विरुद्ध या लोक प्रशांति के विरुद्ध अपराध करने के लिए उत्प्रेरित हो, अथवा

(ग) इस आशय से कि, या जिससे यह संभाव्य हो कि, उससे व्यक्तियों का कोई वर्ग या समुदाय किसी दूसरे वर्ग या समुदाय के विरुद्ध अपराध करने के लिए उद्दीप्त किया जाए,

रचेगा, प्रकाशित करेगा या परिचालित करेगा, वह कारावास से, जो तीन वर्ष तक का हो सकेगा, या जुर्माने से या दोनों से, दण्डित किया जाएगा ।

(2) **विभिन्न वर्गों में शत्रुता, घृणा या वैमनस्य पैदा या संप्रवर्तित करने वाले कथन---** जो कोई जनश्रुति या संत्रासकारी समाचार अंतर्विष्ट करने वाले किसी कथन या रिपोर्ट को, इस आशय से कि, या जिससे वह संभाव्य हो कि, विभिन्न धार्मिक, मूलवंशीय, भाषाई या प्रादेशिक समूहों या जातियों या समुदायों के बीच शत्रुता, घृणा या वैमनस्य की भावनाएं, धर्म, मूलवंश, जन्म-स्थान, निवास-स्थान, भाषा, जाति या समुदाय के आधारों पर या अन्य किसी भी आधार पर पैदा या संप्रवर्तित हो, रचेगा, प्रकाशित करेगा या परिचालित करेगा, वह कारावास से, जो तीन वर्ष तक का हो सकेगा, या जुर्माने से या दोनों से, दण्डित किया जाएगा ।

(3) **पूजा के स्थान आदि में किया गया उपधारा (2) के अधीन अपराध--** जो कोई उपधारा (2) में विनिर्दिष्ट अपराध किसी पूजा के स्थान में या किसी जमाव में, जो धार्मिक पूजा या धार्मिक कर्म करने में लगा हुआ हो, करेगा वह कारावास से, जो पांच वर्ष तक का हो सकेगा, दंडित किया जाएगा और जुर्माने से भी दंडनीय होगा ।

अपवाद--- ऐसा कोई कथन, जनश्रुति या रिपोर्ट इस धारा के अर्थ के अन्तर्गत अपराध की कोटि में नहीं आती, जब उसे रचने वाले, प्रकाशित करने वाले या परिचालित करने वाले व्यक्ति के पास इस विश्वास के लिए युक्तियुक्त आधार हो कि ऐसा कथन, जनश्रुति या रिपोर्ट सत्य है और वह उसे सद्भावपूर्वक तथा पूर्वोक्त जैसे किसी आशय के बिना रचता है, प्रकाशित करता है या परिचालित करता है ।

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[6] धारा 505 समय-समय पर यथासंशोधित रूप में उद्धृत ।

[1][**505. Statements conducing to public mischief.—**(*1*) Whoever makes, publishes or circulates any statement, rumour or report,-

(*a*) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(*2*) **Statements creating or promoting enmity, hatred or ill-will between classes**.**—** Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(*3*) **Offence under sub-section (*2*) committed in place of worship, etc. —**Whoever commits an offence specified in sub-section (*2*) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception.**—**It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.

* * * * *

1. S. 505 has been reproduced here as amended from time to time.

THE REPRESENTATION OF THE PEOPLE ACT, 1950

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS

1. Short title.
2. Definitions.

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3. Allocation of seats in the House of the People.
4. Filling of seats in the House of the People and Parliamentary Constituencies.
5-6. [*Repealed*.]

The State Legislative Assemblies

7. Total number of seats in Legislative Assemblies and Assembly Constituencies.
7A.Total number of seats in the Legislative Assembly of Sikkim and Assembly Constituencies.

The Delimitation of Parliamentary and Assembly Constituencies Order

8. Consolidation of delimitation orders.
9. Power of Election Commission to maintain Delimitation Order up-to-date.
9A. Power of Election Commission to determine the constituencies to be reserved for Scheduled Tribes in certain States.
9B. Power of Election Commission to determine certain Constituencies to be reserved for Scheduled Tribes in the State of Tripura.

The State Legislative Councils

10. Allocation of seats in the Legislative Councils.
11. Delimitation of Council constituencies.

Provisions as to orders delimiting constituencies

12. Power to alter or amend orders.
13. Procedure as to orders delimiting constituencies.

PART IIA

OFFICERS

13A. Chief electoral officers.
13AA. District election officers.
13B. Electoral registration officers.
13C. Assistant electoral registration officers.

SECTIONS

13CC. Chief electoral officers, district election officers, etc., deemed to be on deputation to Election Commission.

PART IIB
ELECTORAL ROLLS FOR PARLIAMENTARY CONSTITUENCIES

13D. Electoral rolls for parliamentary constituencies.

PART III
ELECTORAL ROLLS FOR ASSEMBLY CONSTITUENCIES

14. Definitions.
15. Electoral roll for every constituency.
16. Disqualifications for registration in an electoral roll.
17. No person to be registered in more than one constituency.
18. No person to be registered more than once in any constituency.
19. Conditions of registration.
20. Meaning of "ordinarily resident".
21. Preparation and revision of electoral rolls.
22. Correction of entries in electoral rolls.
23. Inclusion of names in electoral rolls.
24. Appeals.
25. Fee for applications and appeals.
25A. Conditions of registration as elector in Sangha constituency in Sikkim.

PART IV
ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES

26. [*Repealed*.]
27. Preparation of electoral rolls for Council Constituencies.

PART IVA
MANNER OF FILLING SEATS IN THE COUNCIL OF STATES TO BE FILLED BY REPRESENTATIVES OF UNION TERRITORIES

27A. Constitution of electoral colleges for the filling of seats in the Council of States allotted to Union territories.
27B-27F. [*Repealed*.]
27G. Termination of membership of electoral college for certain disqualifications.
27H. Manner of filling of seats in the Council of States allotted to Union territories.
27-I. [*Repealed*.]
27J. Power of electoral colleges to elect notwithstanding vacancies therein.
27K. [*Repealed*.]

PART V
GENERAL

28. Power to make rules.
29. Staff of local authorities to be made available.
30. Jurisdiction of civil courts barred.

SECTIONS

31. Making false declarations.
32. Breach of official duty in connection with the preparation, etc., of electoral rolls.

THE FIRST SCHEDULE.—ALLOCATION OF SEATS IN THE HOUSE OF THE PEOPLE.
THE SECOND SCHEDULE.—TOTAL NUMBER OF SEATS IN THE LEGISLATIVE ASSEMBLIES.
THE THIRD SCHEDULE.—ALLOCATION OF SEATS IN THE LEGISLATIVE COUNCILS.
THE FOURTH SCHEDULE.—LOCAL AUTHORITIES FOR PURPOSES OF ELECTIONS TO LEGISLATIVE COUNCILS.
THE FIFTH SCHEDULE.—[REPEALED.]
THE SIXTH SCHEDULE.— [REPEALED.]
THE SEVENTH SCHEDULE.—[REPEALED.]

THE REPRESENTATION OF THE PEOPLE ACT, 1950

(43 OF 1950)

[12*th May*, 1950.]

An Act to provide the allocation of seats in, and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, [1][the manner of filling seats in the Council of States to be filled by representatives of [2][Union territories]], and matters connected therewith.

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

1. Short title. —This Act may be called the Representation of the People Act, 1950.

2. Definitions.— [3]* * * In this Act, unless the context otherwise requires,—

(*a*) "article" means an article of the Constitution;

(*b*) "Assembly constituency" means a constituency provided [4][by law] for the purpose of elections to the Legislative Assembly of a State;

(*c*) "Council constituency" means a constituency provided [5][by law] for the purpose of elections to the Legislative Council of a State;

[6]* * * * *

(*d*) "Election Commission" means the Election Commission appointed by the President under article 324;

(*e*) "order" means an order published in the Official Gazette;

(*f*) "Parliamentary constituency" means a constituency provided [7][by law] for the purpose of elections to the House of the People;

[8]* * * * *

(*g*) "person" does not include a body of persons;

(*h*) "prescribed" means prescribed by rules made under this Act;

[9][(i) "State" includes a Union territory;]

(*j*) "State Government", in relation to a Union territory, means the administrator thereof.]

[10]* * * * *

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1. Ins. by Act 73 of 1950, s. 2.
2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".
3. The brackets and figure "(1)" omitted by Act 103 of 1956, s. 65.
4. Subs. by Act 2 of 1956, s. 2, for "by order made under section 9".
5. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "by order made under section 11".
6. Cl. (*cc*) ins. by Act 73 of 1950, s. 3 and omitted by Act 103 of 1956, s. 65.
7. Subs. by Act 2 of 1956, s. 2, for "by section 6 or by order made thereunder".
8. Cl. (*ff*) ins. by Act 67 of 1951, s. 2 was omitted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch. (w.e.f. 21-1-1972).
9. Subs. by s. 3 and Sch., *ibid*., for the former cl. (*i*) (w.e.f. 21-1-1972).
10. Sub-section (*2*) omitted by the Adaptation of Laws (No. 2) Order, 1956.

PART II

ALLOCATION OF SEATS AND DELIMITATION OF CONSTITUENCIES

The House of the People

[1][**3. Allocation of seats in the House of the People**.—The allocation of seats to the States in the House of the People and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of each State shall be as shown in the First Schedule.

4. Filling of seats in the House of the People and parliamentary constituencies. —[2]* * * * *

[3][(*2*) All the seats in the House of the People allotted to the States under section 3 shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.]

(*3*) Every parliamentary constituency referred to in sub-section (*2*) shall be a single-member constituency.

(*4*) Every State to which only one seat is allotted under section 3 shall form one parliamentary constituency.

[4][(*5*) Save as provided in sub-section (*4*), the extent of all parliamentary constituencies except the parliamentary constituencies in the Union territory of Arunachal Pradesh shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 1972 (76 of 1972) and the extent of the parliamentary constituencies in the Union territory of Arunachal Pradesh shall be as determined by the order of the Election Commission under the provisions of the Government of Union Territories Act, 1963 (20 of 1963).]]

5. [*Parliamentary constituencies*.] *Rep. by the Representation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s*. 4.

6. [*Delimitation of parliamentary constituencies*.] *Rep. by the Adaptation of Laws* (*No.* 2) *Order*, 1956.

The State Legislative Assemblies

[5][**7. Total number of seats in Legislative Assemblies and Assembly Constituencies**.—(*1*) [6][Subject to the provisions of [7][sub-sections (*1A*), (*1B*) and (*1C*)], the total number of seats] in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from Assembly Constituencies, and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State, shall be as shown in that Schedule:

Provided that for the period referred to in clause (*2*) of article 371A, the total number of seats allotted to the Legislative Assembly of the State of Nagaland shall be [8][fifty-two], of which—

(*a*) [9][twelve seats] shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council, referred to in that article, from amongst themselves in such manner as the Governor, after consulting that Council may, by notification in the Official Gazette, specify, and

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1. Subs. by Act 47 of 1966, s. 2, for ss. 3 and 4 (w.e.f. 14-12-1966).
2. Sub-section (1) omitted by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).
3. Subs. by s. 11, *ibid*., for sub-section (*2*) (w.e.f. 15-8-1975).
4. Subs. by Act 88 of 1976, s. 2, for sub-section (*5*).
5. Subs. by Act 47 of 1966, s. 4, for s. 7 (w.e.f. 14-12-1966). Original ss. 8 and 9 were rep. by Act 2 of 1956, s. 5 and the Adaptation of Laws (No. 2) Order, 1956, respectively.
6. Subs. by Act 8 of 1980, s. 2, for certain words (w.e.f. 1-9-1979).
7. Subs. by Act 38 of 1992, s. 2, for "sub-sections (*1A*) and (*1B*)" (w.e.f. 5-12-1992).
8. Subs. by Act 61 of 1968, s. 4, for "forty-six".
9. Subs. by s. 4, *ibid*., for "six seats" .

(*b*) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State.

[1][(*1A*) Notwithstanding anything contained in sub-section (*1*), the total number of seats in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980), to be filled by persons chosen by direct election from assembly constituencies shall be thirty-two, of which—

(*a*) twelve seats shall be reserved for Sikkimese of Bhutia-Lepcha origin;
(*b*) two seats shall be reserved for the Scheduled Castes of that State; and
(*c*) one seat shall be reserved for the Sanghas referred to in section 25A.

Explanation.—In this sub-section "Bhutia" includes Chumbipa, Dopthapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.]

[2][(*1B*) Notwithstanding anything contained in sub-section (*1*), in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, to be constituted at any time after the commencement of the Representation of the People (Third Amendment) Act, 1987 (40 of 1987), —

(*a*) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Arunachal Pradesh;
(*b*) fifty-five seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Meghalaya;
(*c*) thirty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Mizoram; and
(*d*) fifty-nine seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Nagaland.]

[3][(*1C*) Notwithstanding anything contained in sub-section (*1*), twenty seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Tripura to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1992 (38 of 1992).]

(*2*) Every assembly constituency referred to [4][in sub-section (*1*) or sub-section (*1A*)] shall be a single-member constituency.

[5][(*3*) [6][The extent of each assembly constituency in all the States and Union territories except the assembly constituencies in the State of Sikkim and] in the Union territory of Arunachal Pradesh shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 1972 (76 of 1972) [1][; the extent of each assembly constituency in the State of Sikkim shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as amended by section 4 of the Representation of the People (Amendment) Act, 1980 (8 of 1980)] and the extent of each assembly constituency in the Union territory of Arunachal Pradesh shall be as determined by the order of the Election Commission made under the provisions of the Government of Union Territories Act, 1963 (20 of 1963).]

[7][**7A. Total number of seats in the Legislative Assembly of Sikkim and Assembly constituencies**.—(*1*) Notwithstanding anything contained in section 7, in the Legislative Assembly of the State of Sikkim [deemed under the Constitution (Thirty-sixth Amendment) Act, 1975 to be the Legislative Assembly of that State duly constituted], the total number of seats to be filled by persons chosen by direct election from Assembly constituencies shall be 32.

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1. Ins. by Act 8 of 1980, s. 2 (w.e.f. 1-9-1979).
2. Ins. by Act 40 of 1987, s. 2 (w.e.f. 22-9-1987).
3. Ins. by Act 38 of 1992, s. 2 (w.e.f. 5-12-1992).
4. Subs. by Act 8 of 1980, s. 2, for "in sub-section (*1*)" (w.e.f. 1-9-1979).
5. Subs. by Act 88 of 1976, s. 3, for sub-section (*3*).
6. Subs. by Act 8 of 1980, s. 2, for certain words (w.e.f. 1-9-1979).
7. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).

(*2*) Every Assembly constituency referred to in sub-section (*1*) shall be a single-member constituency.

(*3*) In the Legislative Assembly so deemed to be duly constituted, the extent of each constituency and the reservation of seats shall be as provided for immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975.]

The Delimiation of Parliamentary and Assembly Constituencies Order

8. Consolidation of delimitation orders.— (*1*) As soon as may be, after all the orders referred to in sub-section (*5*) of section 4 or in sub-section (*3*) of section 7 relating to the delimitation of parliamentary and assembly constituencies have been made by the Delimitation Commission or, as the case may be, the Election Commission and published in the Official Gazette, the Election Commission shall, after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, consolidate all such orders into one single order to be known as [1][the Delimitation of Parliamentary and Assembly Constituencies Order, 1976] and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (*5*) of section 4 or in sub-section (*3*) of section 7 and shall have the force of law and shall not be called in question in any court.

(*2*) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State.

[2][(*3*) The consolidation under sub-section (*1*) of the orders referred to in sub-section (*5*) of section 4, or as the case may be, sub-section (*3*) of section 7 shall not, as provided in sub-section (*5*) of section 10 of the Delimitation Act, 1972 (76 of 1972), affect the representation in, and the territorial constituencies of, the House of the People or the Legislative Assembly of the State existing on the date of publication in the Gazette of India of any such order or orders as may be relevant.]

9. Power of Election Commission to maintain Delimitation Order up-to-date.— (*1*) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,-

(*a*) correct any printing mistake in [3][the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, or, as the case may be, the Delimitation of Parliamentary and Assembly Constituencies Order, 1976] or any error arising therein from inadvertent slip or omission;

[4][(*aa*) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under any Central Act;]

(*b*) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(*2*) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.]

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1. Subs. by Act 88 of 1976, s. 4, for certain words (w.e.f. 2-9-1976).
2. Ins. by s. 4, *ibid*. (w.e.f. 2-9-1976).
3. Subs. by s. 5, *ibid*., for certain words.
4. Ins. by Act 21 of 1989, s. 2.

[1][**9A. Power of Election Commission to determine the constituencies to be reserved for Scheduled Tribes in certain States**.--(*1*) As soon as may be after the coming into force of the Representation of the People (Second Amendment) Act, 1987 (38 of 1987), the Election Commission shall, having regard to the provisions of the Constitution and the principle specified in clause (*d*) of sub-section (*1*) of section 9 of the Delimitation Act, 1972 (76 of 1972), determine the assembly constituencies in the States of Meghalaya, Mizoram and Nagaland in which seats shall be reserved for the Scheduled Tribes.

(*2*) The Election Commission shall,—

(*a*) publish its proposals under sub-section (*1*) with respect to any State in the Official Gazette and also in such other manner as it thinks fit;

(*b*) specify a date on or after which the proposals will be further considered by it;

(*c*) consider all objections and suggestions which may have been received by it before the date so specified;

(*d*) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in such State as it thinks fit;

(*e*) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the assembly constituency or constituencies in the State in which seats shall be reserved for the Scheduled Tribes and cause such order to be published in the Official Gazette; and, upon such publication, the order shall have the full force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, or, as the case may be, the Mizoram (Delimitation of Assembly Constituencies) Order, 1986 shall be deemed to have been amended accordingly.

(*3*) Every order made under sub-section (*2*) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State concerned.

Explanation.--For the purposes of this section, "assembly constituency" means,—

(*a*) in relation to the States of Meghalaya and Nagaland, the assembly constituencies in those States as specified in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976; and

(*b*) in relation to the State of Mizoram, the assembly constituencies as specified in the Mizoram (Delimitation of Assembly Constituencies) Order, 1986.]

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1. Ins. by Act 38 of 1987, s. 2 (w.e.f. 21-9-1987).

[1][**9B. Power of Election Commission to determine certain constituencies to be reserved for Scheduled Tribes in the State of Tripura.**—As soon as may be after the coming into force of the Representation of the People (Amendment) Act, 1992 (38 of 1992),the Election Commission shall, having regard to the provisions of the Constitution and the principle specified in clause (*d*) of sub-section (*1*) of section 9 of the Delimitation Act, 1972 (76 of 1972), determine the three assembly constituencies in the State of Tripura in which the three additional seats for Scheduled Tribes, as increased by sub-section (*lC*) of section 7, shall be reserved.

(*2*) The Election Commission shall,—

(*a*) publish its proposals under sub-section (*1*) in the Official Gazette and also in such other manner as it thinks fit;

(*b*) specify a date on or after which the proposals will be further considered by it;

(*c*) consider all objections and suggestions which may have been received by it before the date so specified;

(*d*) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in the State as it thinks fit;

(*e*) after considering all objections and suggestions which may have been received by it before the date so specified determine, by order, the three assembly constituencies in the State in which the said three additional seats shall be reserved for the Scheduled Tribes and cause such order to be published in the Official Gazette; and upon such publication, the order shall have the full force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be deemed to have been amended accordingly.

(*3*) Every order made under sub-section (*2*) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State of Tripura.]

The State Legislative Councils

10. Allocation of seats in the Legislative Councils.— (*1*) The allocation of seats in the Legislative Councils of the States having such Councils shall be as shown in the Third Schedule.

(*2*) In the Legislative Council of each State specified in the first column of the Third Schedule, there shall be the number of seats specified in the second column thereof opposite to that State, and of those seats,—

(*a*) the numbers specified in the third, fourth and fifth columns shall be the number of seats to be filled by persons elected, respectively, by the electorates referred to in sub-clauses (*a*), (*b*) and (*c*) of clause (*3*) of article 171;

(*b*) the number specified in the sixth column shall be the number of seats to be filled by persons elected by the members of the Legislative Assembly of the State from amongst persons who are not members of that Assembly; and

(*c*) the number specified in the seventh column shall be the number of seats to be filled by persons nominated by the Governor [2]* * * of the State in accordance with the provisions of clause (*5*) of article 171.

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1. Ins. by Act 38 of 1992, s. 3 (w.e.f. 5-12-1992).
2. The words "or Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.

[1]* * * * *

11. Delimitation of Council Constituencies.—As soon as may be after the commencement of this Act, the President shall, by order, determine--

(*a*) the constituencies into which each State having a Legislative Council shall be divided for the purpose of elections to that Council under each of the sub-clauses (*a*), (*b*) and (*c*) of clause (3) of article 171;

(*b*) the extent of each constituency; and

(*c*) the number of seats allotted to each constituency.

Provisions as to orders delimiting constituencies

12. Power to alter or amend orders.—[2][(*1*)] The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under [3]* * * section 11.

[4][(*2*) An order under sub-section (*1*) may contain provisions for the allocation of any member representing any council constituency immediately before the making of the order to any constituency delimited anew or altered by the order and for such other incidental and consequential matters as the President may deem necessary.]

13. Procedure as to orders delimiting constituencies.—[5]* * * * *

(*3*) Every order made under [6]* * * section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

[7][PART IIA
OFFICERS

13A. Chief electoral officers.—(*1*) There shall be for each State a chief electoral officer who shall be such officer of Government as the Election Commission may, in consultation with that Government, designate or nominate in this behalf.

(*2*) Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act.

[8][**13AA. District election officers.—**(*1*) For each district in a State, [9][***], the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

1. Sub-section (*3*) ins. by the Adaptation of Laws (No. 2) Order, 1956 and omitted by Act 37 of 1957, s. 12.
2. S. 12 re-numbered as sub-section (*1*) of that section by Act 20 of 1960, s. 2.
3. The words and figures "section 6, section 9, or" omitted by Act 2 of 1956, s. 7.
4. Ins. by Act 20 of 1960, s. 2.
5. Sub-sections (*1*) and (*2*) omitted by Act 2 of 1956, s. 8.
6. The words and figures "section 6, section 9," omitted by s. 8, *ibid*.
7. Ins. by s. 9, *ibid*.
8. Ins. by Act 47 of 1966, s. 5 (w.e.f. 14-12-1966).
9. The words "other than a Union territory," omitted by Act, 2 of 2004, s. 2 (*a*).

(*2*) Where more than one district election officer are designated or nominated for a district under the proviso to sub-section (*1*), the Election Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(*3*) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(*4*) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

13B. Electoral registration officers.—(*1*) The electoral roll [1][[2][for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly], each assembly constituency and each Council constituency] shall be prepared and revised by an electoral registration officer who shall be such officer of Government or of a local authority as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf.

(*2*) An electoral registration officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for the constituency.

13C. Assistant electoral registration officers.—(*1*) The Election Commission may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

(*2*) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

[3][**13CC. Chief Electoral Officers, District Election Officers, etc., deemed to be on deputation to Election Commission.—**The officers referred to in this Part and any other officer or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

PART IIB
ELECTORAL ROLLS FOR PARLIAMENTARY CONSTITUENCIES

[4][**13D. Electoral rolls for parliamentary constituencies.—** (*1*) The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency:

1. Subs. by Act 103 of 1956, s. 65, for certain words.
2. Subs. by Act 47 of 1966, s. 6, for certain words (w.e.f.14-12-1966).
3. Ins. by Act 1 of 1989, s. 2 (w.e.f. 15-3-1989).
4. Subs. by Act 47 of 1966, s. 7, for s. 13D (w.e.f. 14-12-1966).

Provided that for the period referred to in clause (2) of article 371A, it shall be necessary to prepare and revise separately the electoral roll for that part of the parliamentary constituency of Nagaland which comprises the Tuensang district and the provisions of Part III shall apply in relation to the preparation and revision of the electoral roll of the said part as they apply in relation to an assembly constituency.

(*2*) The provisions of Part III shall apply in relation to every parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly as they apply in relation to an assembly constituency.]

PART III

[1][ELECTORAL ROLLS FOR ASSEMBLY [2]* * * CONSTITUENCIES]

[3][**14. Definitions.—**In this Part, unless the context otherwise requires,—

(*a*) "constituency" means an Assembly constituency [2]* * * ;

(*b*) "qualifying date", in relation to the preparation or revision of every electoral roll under this Part, means [4][the 1st day of January] of the year in which it is so prepared or revised:]

[5][Provided that "qualifying date", in relation to the preparation or revision of every electoral roll under this Part in the year 1989, shall be the 1st day of April, 1989.]

15. Electoral roll for every constituency.—For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.

16. Disqualifications for registration in an electioral roll.—(*1*) A person shall be disqualified for registration in an electoral roll if he—

(*a*) is not a citizen of India; or

(*b*) is of unsound mind and stands so declared by a competent court; or

(*c*) is for the time being disqualified from voting under the provisions of any law relating to corrupt [6]* * * practices and other offences in connection with elections.

(*2*) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

[7][Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (*c*) of sub-section (*1*) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.]

1. Subs. by Act 2 of 1956, s. 10, for the heading "REGISTRATION OF PARLIAMENTARY ELECTORS".
2. Certain words omitted by Act 103 of 1956, s. 65.
3. Subs. by Act 2 of 1956, s. 11, for s. 14.
4. Subs. by Act 58 of 1958, s. 5, for "the 1st day of March" (w.e.f. 1-1-1959).
5. Ins. by Act 21 of 1989, s. 3 (w.e.f. 28-3-1989).
6. The words "and illegal" ins. by Act 73 of 1950, s. 4 and omitted by Act 58 of 1960, s. 3 and Sch. II.
7. Ins. by Act 73 of 1950, s. 4.

17. No person to be registered in more than one constituency.—No person shall be entitled to be registered in the electoral roll for more than one constituency [1]* * *.

18. No Person to be registered more than once in any constituency. —No person shall be entitled to be registered in the electoral roll for any constituency more than once.

[2][**19. Conditions of registration.**--Subject to the foregoing provisions of this Part, every person who —

(*a*) is not less than [3][eighteen years] of age on the qualifying date, and

(*b*) is ordinarily resident in a constituency,

shall be entitled to be registered in the electoral roll for that constituency.]

20. Meaning of "ordinarily resident".—[4][(*1*) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(*1A*) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(*1B*) A member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.]

(*2*) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

[5][(*3*) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.]

(*4*) Any person holding any office in India declared[6] by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, [7]* * * shall be deemed to be ordinarily resident [8]*** on

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1. The words "in the same State" ins. by Act 2 of 1956, s. 12 and omitted by Act 58 of 1958, s. 6.
2. Subs. by Act 58 of 1958, s. 7, for s. 19.
3. Subs. by Act 21 of 1989, s. 4, for "twenty-one years" (w.e.f. 28-3-1989).
4 Subs. by Act 58 of 1958, s. 8, for sub-section (*1*).
5. Subs. by Act 47 of 1966, s. 8, for sub-section (*3*) (w.e.f. 14-12-1966).
6. The following offices have been declared by the President by Notification No. S.O. 959, dated the 18th April, 1960: —
   1. The President of India.
   2. The Vice-President of India.
   3. Governors of States.
   4. Cabinet Ministers of the Union or of any State.
   5. The Deputy Chairman and Members of the Planning Commission.
   6. The Ministers of State of the Union or of any State.
   7. Deputy Ministers of the Union or of any State.
   8. The Speaker of the House of the People or of any Legislative Assembly.
   9. The Chairman of any State Legislative Council.
   10. Lieutenant Governors of Union territories.
   11. The Deputy Speaker of the House of the People or of any State Legislative Assembly.
   12. The Deputy Chairman of the Council of States or of any State Legislative Council.
   13. Parliamentary Secretaries of the Union or of any State.
7. Certain words omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).
8. The words "during any period or" omitted by Act 2 of 1956, s. 14.

any date in the constituency in which, but for the holding of any such office [1]* * *, he would have been ordinarily resident [2]* * * on that date.

(*5*) The statement of any such person as is referred to in sub-section (*3*) or sub-section (*4*) made in the prescribed form and verified in the prescribed manner, that [3][but for his having the service qualification] or but for his holding any such office [4]* * * as is referred to in sub-section (4) he would have been ordinarily resident in a specified place [5]* * * on any date, shall, in the absence of evidence to the contrary, be [3][accepted as correct].

(*6*) The wife of any such person as is referred to in sub-section (*3*) or sub-section (*4*) shall if she be ordinarily residing with such person [5]* * * be deemed to be ordinarily resident on [7]*** in the constituency specified by such person under sub-section (*5*).

[8][(*7*) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.]

(*8*) In sub-sections (*3*) and (*5*) "service qualification" means—

(*a*) being a member of the armed forces of the Union; or

(*b*) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or

(*c*) being a member of an armed police force of a State, who is serving outside that State; or

(*d*) being a person who is employed under the Government of India, in a post outside India.

[9][**21. Preparation and revision of electoral rolls**. — (*1*) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

[10][(*2*) The said electoral roll—

(*a*) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(*i*) before each general election to the House of the People or to the Legislative Assembly of a State; and

(*ii*) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

1. The words "or employment" omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).
2. The words "during that period or" omitted by Act 2 of 1956, s. 14.
3. Subs. by Act 47 of 1966, s. 8, for certain words (w.e.f. 14-12-1966).
4. Certain words omitted by s. 8, *ibid.* (w.e.f. 14-12-1966).
5. The words "during any period or" omitted by Act 2 of 1956, s. 14.
6. The words "during any period" omitted by s. 14, *ibid*.
7. The words "during that period" omitted by s. 14, *ibid*.
8. Sub-section (*7*) omitted by Act 2 of 1956, s. 14 and ins. by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).
9. Subs. by Act 2 of 1956, s. 15, for ss. 21 to 25.
10. Subs. by Act 47 of 1966, s. 9, for sub-section (*2*) (w.e.f. 14-12-1966).

(*b*) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.]

(*3*) Notwithstanding anything contained in sub-section (*2*), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

[1][**22**. **Correction of entries in electoral rolls.—**If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency-

(*a*) is erroneous or defective in any particular,

(*b*) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(*c*) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (*a*) or clause (*b*) or any action under clause (*c*) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.]

[2][**23. Inclusion of names in electoral rolls**.— (*1*) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(*2*) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(*3*) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.]

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1. Subs. by Act 58 of 1958, s. 9, for s. 22.
2. Subs. by Act 47 of 1966, s. 10, for s. 23 (w.e.f. 14-12-1966).

[1][**24. Appeals**.—An appeal shall lie within such time and in such manner as may be prescribed—

(*a*) to the chief electoral officer, from any order of the electoral registration officer under section 22 or section 23 [2]* * *.

[3]* * * * *

25. Fee for applications and appeals.— Every applications under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded.]

[4][**25A. Conditions of registration as elector in Sangha constituency in Sikkim**.—Notwithstanding anything contained in sections 15 and 19, for the Sangha constituency in the State of Sikkim, only the Sanghas belonging to monasteries, recognised for the purpose of the elections held in Sikkim in April, 1974, for forming the Assembly for Sikkim, shall be entitled to be registered in the electoral roll, and the said electoral roll shall, subject to the provisions of sections 21 to 25, be prepared or revised in such manner as may be directed by the Election Commission, in consultation with the Government of Sikkim.]

PART IV
[5][ELECTORAL ROLLS FOR COUNCIL CONSTITUENCIES]

26. [*Preparation of electoral rolls for Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s*. 17.

27. Preparation of electoral roll for Council constituencies.--(*1*) In this section, "local authorities' constituency", "graduates' constituency" and "teachers' constituency" mean a constituency for the purpose of elections to a Legislative Council under sub-clause (*a*), sub-clause (*b*) and sub-clause (*c*), respectively, of clause (3) of article 171.

[6][(*2*) For the purpose of elections to the Legislative Council of a State in any local authorities' constituency—

(*a*) the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule;

(*b*) every member of each such local authority within a local authorities' constituency shall be entitled to be registered in the electoral roll for that constituency;

(*c*) the electoral registration officer for every local authorities' constituency shall maintain in his office in the prescribed manner and form the electoral roll for that constituency corrected up-to-date;

(*d*) in order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the membership of that local authority; and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority; and

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1. Ins. by Act 40 of 1961, s. 3 (w.e.f. 20-9-1961). S. 24 ins. by Act 60 of 1956, s. 2 and was omitted by Act 58 of 1958, s. 10.
2. The word "and" omitted by Act 47 of 1966, s. 11 (w.e.f. 14-12-1966).
3. Cl.(*b*) omitted by s.11, *ibid.* (w.e.f. 14-12-1966).
4. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).
5. Subs. by Act 2 of 1956, s. 16, for the former heading.
6. Subs. by s. 18, *ibid.*, for sub-section (*2*).

(*e*) the provisions of sections 15, 16, 18, 22 and 23 shall apply in relation to local authorities' constituencies as they apply in relation to assembly constituencies.]

(*3*) For the purpose of elections to the Legislative Council of a State in the graduates' constituencies and the teachers' constituencies, the State Government concerned may, with the concurrence of the Election Commission, by notification in the Official Gazette, specify—

(*a*) the qualifications which shall be deemed to be equivalent to that of a graduate of a university in the territory of India, and

(*b*) the educational institutions within the State not lower in standard than that of a secondary school.

[1][(*4*) The provisions of sections 15, 16, 18, 21, 22 and 23 shall apply in relation to graduates' constituencies and teachers' constituencies as they apply in relation to assembly constituencies.]

(*5*) Subject to the foregoing provisions of this section, —

[2]* * * * *

[3][(*a*)] every person who [4][is] ordinarily resident in a graduates' constituency and has, for at least three years [5][before the qualifying date], been either a graduate of a University in the territory of India or in possession of any of the qualifications specified under clause (*a*) of sub-section (*3*) by the State Government concerned, shall be entitled to be registered in the electoral roll for that constituency; and

[6][(*b*)] every person who [4][is] ordinarily resident in a teachers' constituency, and has, within the six years immediately [5][before the qualifying date] for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (*b*) of sub-section (*3*) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency.

[7][(*6*) For the purposes of sub-sections (*4*) and (*5*) the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced.]

[8][PART IVA
MANNER OF FILLING SEATES IN THE COUNCIL OF STATES TO BE FILLED BY REPRESENTATIVES OF [9][UNION TERRITORIES]

27A. Constitution of electoral colleges for the filling of seats in the Council of States allotted to Union territories. — (*1*) [10][For the purpose of filling any seat] or seats in the Council of States allotted to any [9][Union territory] [11]* * * in the Fourth Schedule to the Constitution there shall be an electoral college for [12][each such territory] [13] * * *.

[14]* * * * *
[15]* * * * *

1. Subs. by Act 2 of 1956, s. 18, for sub-section (*4*).
2. Cl. (*a*) omitted by s. 18, *ibid*.
3. Cl. (*b*) re-lettered as cl. (*a*) by s. 18, *ibid*.
4. Subs. by Act 40 of 1961, s. 4, for " on the qualifying date was" (w.e.f. 20-9-1961).
5. Subs. by s. 4, *ibid*., for "before that date" (w.e.f. 20-9-1961).
6. Cl. (*c*) re-lettered as cl. (*b*) by Act 2 of 1956, s. 18.
7. Subs. by Act 40 of 1960, s. 4, *ibid*., for sub-section (*6*) (w.e.f. 20-9-1961).
8. Part IVA ins. by Act 73 of 1950, s. 8.
9. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".
10. Subs. by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).
11. The words "or group of such States" omitted by the Adaptation of Laws (No. 2) Order , 1956.
12. Subs., *ibid*., for "each such State".
13. The words "or group of States" and proviso omitted by Act 2 of 1956. s. 19.
14. Proviso omitted by s.19, *ibid.*
15. Sub-section (*2*) omitted by Act 20 of 1963, s. 57 and Sch. II (w.e.f. 1-7-1963).

[1][(*3*) The electoral college for the Union territory of Delhi shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992).]

[2][(*4*) [3][The electoral college for the Union territory of [4]*** Pondicherry] shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union Territories Act, 1963 (20 of 1963).]

[5]* * * * *

[6]* * * * *

27B. [*Electoral College constituencies.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s.* 65.

27C. [*Delimitation of Electoral College constituencies.*] *Rep. by s.* 65, ibid.

27D. [*Power to alter or amend orders.*] *Rep. by s.* 65, ibid.

27E. [*Procedure as to orders delimiting constituencies.*] *Rep. by the Representation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s.* 21.

27F. [*Electoral rolls for Council of States constituencies.*] *Rep. by s.* 22, ibid.

27G. Termination of membership of electoral college for certain disqualifications.—If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with elections to Parliament, he shall thereupon cease to be such member of the electoral college.

27H. Manner of filling of seats in the Council of States allotted to Union territories.—[7]* * * The seat or seats in the Council of States allotted to any [8][Union territory] [9]* * * in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for [10][that territory] [11]* * * in accordance with the system of proportional representation by means of the single transferable vote:

[12][Provided that the person who immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, is filling the seat allotted to the Part C States of Manipur and Tripura shall, as from such commencement, be deemed to have been duly elected to fill the seat allotted to the Union territory of Tripura.]

27-I. [*Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Manipur and Tripura.] Rep. by the Adaptation of Laws (No.* 2) *Order*, 1956.

27J. Powers of electoral colleges to elect notwithstanding vacancies therein. —No election by the members of an electoral college [13]*** under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college [13]* * *.

27K. *[Electoral colleges for certain States for which Legislative Assemblies have been constituted.] Rep. by the Adaptation of Laws (No.* 2) *Order*, 1956.]

1. Subs. by Act 1 of 1992, s. 55, for sub-section (*3*) (w.e.f. 2-10-1993).
2. Subs. by Act 20 of 1963, s. 57 and Sch. II, for sub-section (*4*).
3. Subs. by Act 69 of 1986, s. 7, for certain words (w.e.f. 20-2-1987).
4. The word "Mizoram" omitted by Act 34 of 1986, s. 7 (w.e.f. 20-2-1987).
5. Sub-section (*5*) omitted by Act 29 of 1975, s. 11 (w.e.f. 15-8-1975).
6. Sub-section (*6*) omitted by Act 32 of 1954, s. 7.
7. Certain words omitted by the Adaptation of Laws (No. 2) Order, 1956.
8. Subs., *ibid*., for "Part C State".
9. The words "or group of such States" omitted, *ibid*.
10. Subs., *ibid*., for "such State".
11. The words "or group of States" omitted by Act 2 of 1956, s. 23.
12. Ins. by the Adaptation of Laws (No. 2) Order, 1956.
13. Certain words omitted by Act 49 of 1951, s. 44 and Sch. V.

PART V
GENERAL

28. Power to make rules.—(*1*) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules[1] for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

[2][(*a*) the determination of ordinary residence under sub-section (*7*) of section 20;

(*aa*) the particulars to be entered in the electoral rolls;]

(*b*) the preliminary publication of electoral rolls [3]* * *;

(*c*) the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred;

[4]* * * * *

(*e*) the manner in which notices of claims or objections shall be published;

(*f*) the place, date and time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of;

(*g*) the final publication of electoral rolls;

[5][(*h*) the revision and correction of electoral roll and inclusion of names therein;]

(*i*) any other matter required to be prescribed by this Act.

[6][(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to be validity of anything previously done under that rule.]

[7][**29. Staff of local authorities to be made available.—**Every local authority in a State shall, when so requested by the chief electoral officer of the State, make available to any electoral registration officer such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.]

30. Jurisdiction of civil courts barred.—No civil court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

---

1. *See* the Registration of Electors Rules, 1960, in Vol. II, *infra*.
2. Subs. by Act 47 of 1966, s. 12, for cl. (*a*) (w.e.f. 14-12-1966).
3. Certain words omitted by Act 73 of 1950, s. 9.
4. Cl. (*d*) omitted by Act 20 of 1960, s. 3.
5. Subs. by Act 2 of 1956, s. 24, for cl. (*h*).
6. Subs. by Act 88 of 1976, s. 6, for sub-section (*3*).
7. Subs. by Act 2 of 1956, s. 25, for s. 29.

(*b*) to question the legality of any action taken by or under the authority of an electoral registration officer, or of any decision given by any authority appointed under this Act for the revision of any such roll.

[1][[2][**31. Making false declarations.**—If any person makes in connection with—

(*a*) the preparation, revision or correction of an electoral roll, or

(*b*) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.]

32. Breach of official duty in connection with the preparation, etc., of electoral rolls.—(*1*) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable [3][with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine].

(*2*) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(*3*) No court shall take cognizance of any offence punishable under sub-section (*1*) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned.]

[4][THE FIRST SCHEDULE
(*See* section 3)
Allocation of Seats in the House of the People

Name of the State/ Union territory	*Number of seats in the House as constituted on 1-1-1973*			*Number of seats in the House as subsequently constituted*		
	Total	*Reserved for the Schedued Castes*	*Reserved for the Scheduled Tribes*	*Total*	*Reserved for the Scheduled Castes*	*Reserved for the Scheduled Tribes*
1	2	3	4	5	6	7
I. STATES:						
1. Andhra Pradesh	41	6	2	42	6	2
[5][2. Arunachal Pradesh	1	..	1	2	..	..]
[6][3.] Assam	14	1	2	14	1	2
[7][4. Bihar	53	7	5	40	7	..]

1. Ins. by Act 58 of 1958, s. 11.
2. Subs. by Act 20 of 1960, s. 4, for s. 31.
3. Subs. by Act 21 of 1996, s. 2, for certain words (w.e.f. 1-8-1996).
4. Subs. by Act 88 of 1976, s. 7, for the First and Second Schedules.
5. Ins. by Act 69 of 1986, s. 8 (w.e.f. 20-2-1987).
6. Renumbered by s. 8, *ibid.* (w.e.f. 20-2-1987).
7. Subs. by Act 30 of 2000, s. 9, for entry 4 (w.e.f. 15-11-2000.

1	2	3	4	5	6	7
[1][5. Chhattisgarh	..	..	..	11	..	..]
[2][[3][6.] Goa	..	..	..	2	..	..]
[3][7.] Gujarat	24	2	3	26	2	4
[3][8.] Haryana	9	2	..	10	2	..
[3][9.] Himachal Pradesh	4	1	..	4	1	..
[4][10. Jharkhand	..	..	..	14	1	5]
[5] [11.] Jammu and Kashmir	6	..	..	6	..	..
[5] [12.] Karnataka	27	4	..	28	4	..
[5][13.] Kerala	19	2	..	20	2	..
[5] [14.] Madhya Pradesh	37	5	8	[6][29]	[7][6]	[8][9]
[5] [15.] Maharashtra	45	3	3	48	3	[9][4]
[5] [16.] Manipur	2	..	1	2	..	1
[5] [17.] Meghalaya	2	..	2	2	..	..
[10][18.] Mizoram	1	..	1	1	..	1]
[5] [19.] Nagaland	1	..	..	1	..	..
[5] [20.] Orissa	20	3	5	21	3	5
[5] [21.] Punjab	13	3	..	13	3	..
[5] [22.] Rajasthan	23	4	3	25	4	3
[5] [23.] Sikkim	..	..	..	1	..	..
[5] [24.] Tamil Nadu	39	7	..	39	7	..
[5][25.] Tripura	2	..	1	2	..	1
[11][26. Uttranchal	..	..	..	5	..	..]
[12] [27.] Uttar Pradesh	85	18	..	[13][80]	18	..
[12][28.] West Bengal	40	8	2	42	8	2
II. *UNION TERRITORIES:*						
1. Andaman and Nicobar Island	1	..	..	1	..	..
[14]* * * * *						
[15][2.] Chandigarh	1	..	..	1	..	..
[15][3.] Dadra and Nagar Haveli	1	..	1	1	..	1
[15][4.] Delhi	7	1	..	7	1	..
[16][5.] Daman and Diu	1	..	..	1	..	..
6. Lakshadweep	1	..	1	1	..	1
[17]* * * * *						
[18][7.] Pondicherry	1	..	..	1	..	..
TOTAL:	522	77	41	543	79	41

1. Ins. by Act 28 of 2000, s. 9 (w.e.f. 1-11-2000).
2. Ins by Act 18 of 1987, s. 8 (w.e.f. 30-5-1987).
3. Renumbered by Act 28 of 2000, s. 9 (w.e.f. 1-11-2000).
4. Ins. by Act 30 of 2000, s. 9, (w.e.f. 15-11-2000).
5. Renumbered by s. 9, *ibid*. (w.e.f. 15-11-2000).
6. Subs. by Act 28 of 2000, s. 9, for "40" (1-11-2000).
7. Subs. by Notifn. No. S.O. 3567, dated 16-10-1979, for "5".
8. Subs. *ibid*., for "8".
9. Subs. by Notifn. No. S.O. 35(E), dated 21-1-1978, for "3".
10. Ins. by Act 34 of 1986, s. 8 (w.e.f. 20-2-1987).
11. Ins. by Act 29 of 2000, s. 9 (w.e.f. 9-11-2000).
12. Amended by Act 29 of 2000, s..9 (w.e.f. 19-11-2000).
13. Subs. by s..9, *ibid.*, for "85" (w.e.f. 9-11-2000).
14 Entry relating to Arunachal Pradesh omitted by Act 69 of 1986, s. 8 (w.e.f. 20-2-1987).
15. Renumbered by s. 8, *ibid*. (w.e.f. 20-3-1987).
16. Subs. by Act 18 of 1987, s. 12, for the entry relating to Goa, Daman and Diu (w.e.f. 30-5-1987).
17. Entry relating to Mizoram omitted by Act 34 of 1986, s. 8 (w.e.f. 20-2-1987).
18. Renumbered by s. 8, *ibid*. (w.e.f. 20-2-1987).

THE SECOND SCHEDULE
(*See* sections 7 and 7A)
Total number of Seats in the Legislative Assemblies

Name of the State/ Union territory	*Number of seats in the Legislative Assembly as constituted on 1-1-1973*			*Number of seats in the Legislative Assembly as subsequently constituted*		
	Total	*Reserved for the Schedued Castes*	*Reserved for the Scheduled Tribes*	*Total*	*Reserved for the Scheduled Castes*	*Reserved for the Scheduled Tribes*
1	2	3	4	5	6	7
I. STATES:						
1. Andhra Pradesh	287	40	11	294	39	15
[1][2. Arunachal Pradesh	..	..	..	60	..	59]
3. Assam	114	8	10	126	8	16
[2][4. Bihar	318	45	29	243	39	..
[3][5. Chhattisgarh	..	..	..	..	..	90]
[4][6. Goa	30	..	..	40	1	..]
7. Gujarat	168	11	22	182	13	26
8. Haryana	81	15	..	90	17	..
9. Himachal Pradesh	68	16	3	68	16	3
10. Jammu and Kashmir*	75	6	..	*76	6	..
[5][11. Jharkhand	..	..	..	81	9	28
12. Karnataka	216	29	2	224	33	2
13. Kerala	133	11	2	140	13	1
14. Madhya Pradesh	296	39	61	[6][230]	44	75
15. Maharashtra	270	15	16	288	18	22
16. Manipur	60	1	19	60	1	19
17. Meghalaya	60	..	50	60	..	55!*
[7][18.Mizoram	30	..	..	40	..	39]
19. Nagaland	52	..	..	60	..	59
20. Orissa	140	22	34	147	22	34
21. Punjab	104	23	..	117	29	..
22. Rajasthan	184	31	21	200	33	24
23. Sikkim	..	..	..	32	2	12**
24. Tamil Nadu	234	42	2	234	42	3
25. Tripura	60	6	19	60	7	17
[8][26.Uttaranchal	..	..	..	..	..	70]
27. Uttar Pradesh	425	89	..	[9][403]	92	1
28. West Bengal	280	55	16	294	59	17

1. Ins. by Act 69 of 1986, s. 10 (w.e.f. 20-2-1987).
2. Subs. by Act 30 of 2000, s.12 (w.e.f. 15-11-2000).
3. Subs. by Act Act 28 of 2000, s.12 (w.e.f. 1-11-2000).
4. Ins. by Act 18 of 1987, s. 12 (w.e.f. 30-5-1987).
5. Ins. by Act 30 of 2000, s.12 (w.e.f. 15-11-2000).
6. Subs. by Act 28 of 2000, s.12, for the figures "320" (w.e.f. 1-11-2000).
7. Ins. by Act 34 of 1986, s. 10 (w.e.f. 29-2-1987).
8. Ins. by Act 29 of 2000, s.12 (w.e.f. 9-11-2000).
9. Subs. by s.12, *ibid.*, for the figures "425" (w.e.f. 1-11-2000).

* Under the Constitution of Jammu and Kashmir, the number of seats in the Legislative Assembly of that State excluding the 24 seats earmarked for Pakistan occupied territory is 76 out of which 6 seats have been reserved for the Scheduled Castes in pursuance of the Jammu and Kashmir Representation of the People Act, 1957.

**Reserved 1 seat for Sanghas and 12 seats for Bhutia Lapcha origin.

!* Now 55 seats. see s. 7(*1B*) of this Act as ins. by Act 40 of 1987, s. 2 (w.e.f. 22-9-1987).

1	2	3	4	5	6	7
II. UNION TERRITORIES:						
[1]*	*	*	*	*		*
[2]*	*	*	*	*		*
[3]*	*	*	*	*		*
4. Pondicherry	30	5	..	30	5	..]

[4][THE THIRD SCHEDULE

(*See* section 10)

Allocation of Seats in the Legislative Councils

Name of State	Total number of seats	Number to be elected or nominated under article 171(3)				
		Sub-clause (a)	Sub-clause (b)	Sub-clause (c)	Sub-clause (d)	Sub-clause (e)
1	2	3	4	5	6	7
[5]*	*		*	*		*
[6][2.Bihar	75	24	6	6	27	12]
[7]*	*		*	*		*
[8][3.] Madhya Pradesh	90	31	8	8	31	12
[9]*	*		*	*		*
[10][5.Maharashtra	78	22	7	7	30	12]
[11][6.[12][Karnataka]	75	25	7	7	25	11]
[13]*	*		*	*		*
[14][8. Uttar Pradesh	[15][101]	36	8	8	[15][38]	10]
[16]*	*		*	*		*

1. Entry relating to Arunachal Pradesh omitted by Act 69 of 1986, s. 10 (w.e.f. 20-2-1987).
2. Entry relating to Goa, Daman and Diu omitted by Act 18 of 1987, s. 12 (w.e.f. 30-5-1987).
3. Entry relating to Mizoram omitted by Act 34 of 1986, s. 8 (w.e.f. 20-6-1987).
4. Subs. by Act 37 of 1957, s. 12, for the Third Schedule.
5. Entry relating to Andhra Pradesh omitted by Act 34 of 1985, s. 5 (w.e.f. 1-6-1985).
6. Subs. by Act 30 of 2000, s.17, for entry "2" (w.e.f. 15-11-2000).
7. Entry relating to Bombay omitted by Act 11 of 1960, s. 21 (w.e.f. 1-5-1960).
8. Renumbered by s. 21, ibid. (w.e.f. 1-5-1960).
9. Entry relating to Tamil Nadu omitted by Act 40 of 1986, s. 5 (w.e.f. 1-11-1986).
10. Ins. by Act 11 of 1960, s. 21 (w.e.f. 1-5-1960).
11. Subs. by Act 31 of 1987, s. 2.
12. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch., for "Mysore" (w.e.f. 1-11- 1973).
13. Entry relating to Punjab omitted by Act 46 of 1969, s. 5 (w.e.f. 7-1-1970).
14. Subs. by Act 29 of 2000, s.18 (w.e.f. 9-11-2000).
15. Subs. by Act 7 of 2004, s. 2, for "99" and "37", respectively.
16. Entry relating to West Bengal omitted by Act 20 of 1969, s. 5 (w.e.f. 1-8-1969).

THE FOURTH SCHEDULE

[*See* section 27 (*2*)]

Local authorities for purposes of elections to Legislative Councils

[1]* * * * *

[2][BIHAR

1. Nagar Parishads.
2. Cantonment Boards.
3. Nagar Panchayats.
4. Zila Parishads.
5. Panchayat Samitis.
6. Nagar Nigams (Corporations).
7. Gram Panchayats.]

[3]* * * * *

[4][MADHYA PRADESH

[5][1. Municipalities.
2. Janapada Sabhas.
3. Mandal Panchayats.
4. Cantonment Boards.
5. Notified Area Committees.
6. Town Area Committees.]]

[6]* * * * *

[7][MAHARASHTRA

[8]1. Municipalities.
2. Contonment Boards.

[9]* * * * *

4. Zilla Parishad.]]

[4][[10][KARNATAKA]

[11][1. City Municipal Corporations.
2. City Municipal Councils.
3. Town Municipal Councils.
4. Town Panchayats.
5. Zilla Panchayats.
6. Taluk Panchayats.
7. Grama Panchayats.
8. Cantonment Boards.]]

[12]* * * * *

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1. The heading "Andhra Pradesh" and the entries relating thereto omitted by Act 34 of 1985, s. 5 (w.e.f. 1-6-1985).
2. Subs. by Act 6 of 2003, s. 2., "for "BIHAR" (w.e.f. 6-1-2003).
3. The heading "Bombay" (that is, Maharashtra) and the entries relating thereto omitted by Act 40 of 1961, s. 6 (w.e.f. 20-9-1961).
4. Ins. by the Adaptation of Laws (No. 2) Order, 1956.
5. Subs. by Act 37 of 1957, s. 12, for the former entries.
6. The heading "Tamil Nadu" and the entries relating thereto omitted by the Tamil Nadu Legislative Council (Abolition) Act, 1986, s. 5 (w.e.f. 1-11-1986).
7. Ins. by Act 40 of 1961, s. 6 (w.e.f. 20-9-1961).
8. Subs. by Act 2 of 1963, s. 2, for the former entries.
9. Entry "3. Town Committees." omitted by Act 21 of 1989, s. 5.
10. Subs. by the Mysore State (Alteration of Name) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and Sch., for "Mysore" (w.e.f. 1-11-1973).
11. Subs. by Act 29 of 1996, s. 2, for "the entries 1 to 5".
12. Entry relating to Punjab omitted by Act 46 of 1969, s. 5 (w.e.f. 7-1-1970).

UTTAR PRADESH

[1][1. Municipal Corporations.

2. Municipal Councils.

3. Zila Panchayats.

4. Nagar Panchayats.

5. Kshettra Panchayats.

6. Cantonment Boards.]

[2]* * * * *

[3]* * * * *

[*THE FIFTH SCHEDULE.*] *Rep. by the Government of Union Territories Act*, 1963 (20 *of* 1963), *s.* 57 *and the Second Schedule*.

[*THE SIXTH SCHEDULE.*] *Rep. by the Representation of the People (Amendment) Act*, 1956 (2 *of* 1956), *s.* 27.

[*THE SEVENTH SCHEDULE.*] *Rep. by s.* 27, *ibid*.

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1. Subs. by Act 29 of 1996, s.2, for the entries 1 to 6.
2. The heading "West Bangal" and the entries relating thereto omitted by Act 20 of 1969, s.5 (w.e.f. 1-8-1969).
3. The heading "Mysore" and the entries relating thereto omitted by the Adaptation of Laws (No. 2) Order, 1956.

THE REPRESENTATION OF THE PEOPLE ACT, 1951

ARRANGEMENT OF SECTIONS

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2. Interpretation.

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5A. Qualifications for membership of Legislative Assembly of Sikkim.
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8. Disqualification on conviction for certain offences.
8A. Disqualification on ground of corrupt practices.
9. Disqualification for dismissal for corruption or disloyalty.
9A. Disqualification for Government contracts, etc.
10. Disqualification for office under Government company.
10A. Disqualification for failure to lodge account of election expenses.
11. Removal or reduction of period of disqualification.

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11A. Disqualification arising out of conviction and corrupt practices.
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12A. Notification for election to fill the seat allotted to the State of Sikkim in the Council of States.
13. [*Repealed*.]
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14A. Notification for electing the representative of the State of Sikkim to the existing House of the people.
15. Notification for general election to a State Legislative Assembly.
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20. General duties of chief electoral officers.
20A. General duties of district election officer.
20B. Observers.
21. Returning officers.
22. Assistant returning officers.
23. Returning officer to include assistant returning officers performing the functions of the returning officer.
24. General duty of the returning officer.
25. Provision of polling stations for constituencies.
26. Appointment of presiding officers for polling stations.
27. General duty of the presiding officer.
28. Duties of a polling officer.
28A Returning officer, presiding officer, etc., deemed to be on deputation to Election Commission.
29. Special provisions in the case of certain elections.

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33B.Candidate to furnish information only under Act and the rules.
33C.Right to information.
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36. Scrutiny of nominations.
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48. Revocation of the appointment, or death, of a polling agent or counting agent.
49. Functions of polling agents and counting agents.
50. Attendance of a contesting candidate or his election agent at polling stations and performance by him of the functions of a polling agent or counting agent.
51. Non-attendance of polling or counting agents.

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52. Death of candidate of recognised Political Party before Poll.
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54. [*Repealed.*]
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56. Fixing time for poll.
57. Adjournment of poll in emergencies.
58. Fresh poll in the case of destruction, etc., of ballot boxes.
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59. Manner of voting at elections.
60. Special procedure for voting by certain classes of persons.
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64. Counting of votes.
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65. Equality of votes.
66. Declaration of results.
67. Report of the result.
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68. Vacation of seats when elected to both Houses of Parliament.
69. Vacation of seats by persons already members of one House on election to other House of Parliament.

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70. Election to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.

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71. Publication of results of elections to the Council of States and of names of persons nominated by the President.
72. [*Repealed*.]
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THE REPRESENTATION OF THE PEOPLE ACT, 1951

ACT NO. 43 OF 1951

[17*th* *July*, 1951.]

An Act to provide for the conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt [1]* * * practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

BE it enacted by Parliament as follows:—

PART I
PRELIMINARY

1. Short title.—This Act may be called the Representation of the People Act, 1951.

2. Interpretation.—(*1*) In this Act, unless the context otherwise requires,—

(*a*) each of the expressions defined in section 2 or sub-section (*1*) of section 27 of the Representation of the People Act 1950 (43 of 1950), but not defined in this Act, shall have the same meaning as in that Act;

(*b*) "appropriate authority" means, in relation to an election to the House of the People or the Council of States [2]* * *, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government;

[3][(*bb*) "chief electoral officer" means the officer appointed under section 13A of the Representation of the People Act, 1950 (43 of 1950);]

(*c*) "corrupt practice" means any of the practices specified in section 123 [4]* * *;

[5][(*cc*) "district election officer" means the officer designated or nominated under section 13AA of the Representation of the People Act, 1950 (43 of 1950);]

(*d*) "election" means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir [6]* * * ;

[7][(*e*) "elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950);]

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1. The words "and illegal" omitted by Act 27 of 1956, s. 2.
2. Certain words omitted by Act 103 of 1956, s. 66.
3. Ins. by Act 27 of 1956, s. 3.
4. The words and figures "or section 124" omitted by s. 3, *ibid*.
5. Ins. by Act 47 of 1966, s. 15 (w.e.f. 14-12-1966).
6. Certain words omitted by Act 58 of 1958, s. 14.
7. Subs. by Act 27 of 1956, s. 3, for cl. (*e*).

[1][(*f*) "political party" means an association or a body of individual citizens of India registered with the Election Commission as a political party under section 29A;]

(*g*) "prescribed" means prescribed by rules made under this Act;

[2][(*h*) "public holiday" means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881 (26 of 1881);]

[3]* * * * *

[4]* * * * *

[5][(*i*) "sign", in relation to a person who is unable to write his name, means authenticate in such manner as may be prescribed.

[6]* * * * *

[7]* * * * *

(*2*) For the purposes of this Act, [8]* * * a Parliamentary constituency, an Assembly constituency, a Council constituency, a local authorities' constituency, a graduates' constituency and a teachers' constituency shall each be treated as a constituency of a different class.

(*3*) Any requirement under this Act that a notification, order, rule, declaration, notice or list issued or made by any authority shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule, declaration, notice or list shall—

(*a*) where it is issued or made by the Central Government, be published in the Gazette of India;

(*b*) where it is issued or made by a State Government, be published in the Official Gazette of the State; and

(*c*) where it is issued or made by any other authority, be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament [8]* * * and in the Official Gazette of the State if it relates to an election to, or membership of, the House or either House of the Legislature of a State.

(*4*) Where, under any of the provisions of this Act, anything is to be prescribed, different provisions may be made for different cases or classes of cases.

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1. Cl.(*f*) which was omitted by Act 27 of 1956, s. 3, and ins. by Act 1 of 1989, s. 3 (w.e.f. 15-6-1989).
2. Ins. by Act 47 of 1966, s. 15 (w.e.f. 14-12-1966).
3. Cls. (*h*) and (*i*) omitted by Act 27 of 1956, s. 3.
4. Cl. (*i*) re-lettered as cl. (*h*) by s. 3, *ibid*., omitted by the Adaptation of Laws (No. 2) Order, 1956.
5. Cls. (*k*) and (*i*) re-lettered as cls. (*i*) and (*k*) by Act 27 of 1956, s. 3.
6. Cl. (*j*) ins. by s. 3, *ibid*., and omitted by the Adaptation of Laws (No. 2) Order, 1956.
7. Cl. (*k*) omitted by Act 47 of 1966, s. 15 (w.e.f. 14-12-1966).
8. Certain words omitted by Act 103 of 1956, s. 66.

[1]* * * * *

[2][(*5*)] Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

[1]* * * * *

PART II

[3][QUALIFICATIONS AND DISQUALIFICATIONS]

CHAPTER I.—*Qualifications for Membership of Parliament.*

[4][**3. Qualification for membership of the Council of States.**—A person shall not be qualified to be chosen as a representative of any State [5]* * * or Union territory in the Council of States unless he is an elector for a Parliamentary constituency [6][in India].]

4. Qualifications for membership of the House of the People.—A person shall not be qualified to be chosen to fill a seat in the House of the People [7]* * *, unless—

(*a*) in the case of a seat reserved for the Scheduled Castes in any State, he is a member of any of the Scheduled Castes, whether of that State or of any other State, and is an elector for any Parliamentary constituency;

(*b*) in the case of a seat reserved for the Scheduled Tribes in any State (other than those in the autonomous districts of Assam), he is a member of any of the Scheduled Tribes, whether of that State or of any other State (excluding the tribal areas of Assam), and is an elector for any Parliamentary constituency;

(*c*) in the case of a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency in which such seat is reserved or for any other Parliamentary constituency comprising any such autonomous district; [8]* * *

[9][(*cc*) in the case of the seat reserved for the Scheduled Tribes in the Union territory of [10][Lakshadweep], he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency of that Union territory; [11]* * *]

[12][(*ccc*) in the case of the seat allotted to the State of Sikkim, he is an elector for the Parliamentary constituency for Sikkim;]

(*d*) in the case of any other seat, he is an elector for any Parliamentary constituency.

1. Sub-sections (*5*) and (*7*) omitted and sub-section (*6*) renumbered as sub-section (*5*) by Act 27 of 1956, s. 3.
2. Subs. by Act 47 of 1966, s. 15, for sub-section (*5*).
3. Subs. by s. 16, *ibid*., for the previous heading (w.e.f. 14-12-1966).
4. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for s. 3.
5. Certain words omitted by Act 47 of 1966, s. 17 (w.e.f. 14-12-1966).
6. Subs. by Act 40 of 2003, s. 2.
7. Certain words omitted by Act 29 of 1975, s. 12 (w.e.f. 15-8-1975).
8. The word "and" omitted by Act 47 of 1966, s. 18 (w.e.f. 14-12-1966).
9. Ins. by s. 18, *ibid*. (w.e.f. 14-12-1966).
10. Subs. by the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974 (w.e.f. 1-11-1973).
11. The word "and" omitted by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).
12. Ins. by s. 2 and Sch., *ibid*. (w.e.f. 9-9-1975).

5. Qualifications for membership of a Legislative Assembly.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(*a*) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State;

(*b*) in the case of a seat reserved for an autonomous district of Assam, [1]* * * he is a member of a [2][Scheduled Tribe of any autonomous district] and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district; and

(*c*) in the case of any other seat, he is an elector for any Assembly constituency in that State:

[3][Provided that for the period referred to in clause (*2*) of article 371A, a person shall not be qualified to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article.]

[4][**5A. Qualifications for membership of Legislative Assembly of Sikkim.** —[5][(*1*)] Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution) unless —

(*a*) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any Assembly constituency in the State other than the constituency reserved for the Sanghas;

(*b*) in the case of a seat reserved for Sikkimese of Nepal origin, he is a person of Nepali origin and is an elector for any Assembly constituency in the State;

(*c*) in the case of a seat reserved for Scheduled Castes, he is a member of any of the castes specified in the Representation of Sikkim Subjects Act, 1974 and is an elector for any Assembly constituency in the State; and

(*d*) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency.]

[6][(*2*) Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of the State of Sikkim, to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1980 (8 of 1980), unless—

(*a*) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any assembly constituency in the State other than the constituency reserved for the Sanghas;

(*b*) in the case of a seat reserved for the Scheduled Castes, he is a member of any of those castes in the State of Sikkim and is an elector for any assembly constituency in the State;

(*c*) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency; and

(*d*) in the case of any other seat, he is an elector for any assembly constituency in the State.

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1. Certain words omitted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974 (w.e.f. 21-1-1972).
2. Subs. by Act 47 of 1966, s. 19, for "Scheduled Tribe of that district" (w.e.f. 14-12-1966).
3. Ins. by Act 27 of 1962, s. 11.
4. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).
5. S. 5A renumbered as sub-section (*1*) of that section by Act 8 of 1980, s. 3 (w.e.f. 1-9-1979).
6. Ins. by s..3, *ibid.* (w.e.f. 1-9-1979).

Explanation.—In this sub-section "Bhutia" includes Chumbipa, Dopthapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa and Yolmo.]

6. Qualification for membership of a Legislative Council.—(*1*) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is an elector for any Assembly constituency in that State.

(*2*) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor [1]* * * unless he is ordinarily resident in the State.

[2][CHAPTER III.—*Disqualifications for membership of Parliament and State Legislatures*

7. Definition.—In this Chapter,—

(*a*) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

(*b*) "disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

8. Disqualification on conviction for certain offences.—[3][(*1*) A person convicted of an offence punishable under—

(*a*) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (*1*) or sub-section (*2*) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (*2*) or sub-section (*3*) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

(*b*) the Protection of Civil Rights Act, 1955 (22 of 1955) which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or

(*c*) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or

(*d*) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or

(*e*) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or

(*f*) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(*g*) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

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1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.
2. Subs. by Act 47 of 1966, s. 20, for Chapter III (w.e.f. 14-12-1966). Previous Chapter IV (ss. 10 and 11) was rep. by Act 103 of 1956, s. 66.
3. Subs. by Act 1 of 1989, s. 4, for sub-sections (*1*) and (*2*) (w.e.f. 15-3-1989).

(*h*) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or

(*i*) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) of clause (*a*) of sub-section (*2*) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; [1][or]

[1][(*j*) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991;] [2][or]

[3][(*k*) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971),] [4] [; or]

[4][(*l*) the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or

(*m*) the Prevention of Corruption Act, 1988 (49 of 1988); or

(*n*) the Prevention of Terrorism Act, 2002 (15 of 2002),]

[5][shall be disqualified, where the convicted person is sentenced to—

(*i*) only fine, for a period of six years from the date of such conviction;

(*ii*) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

(*2*) A person convicted for the contravention of–

(*a*) any law providing for the prevention of hoarding or profiteering; or

(*b*) any law relating to the adulteration of food or drugs; or

(*c*) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961);[6]***

[6]* * * * *

(*3*) A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (*1*) or sub-section (*2*)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.]

[7][(*4*)] Notwithstanding anything [8][in sub-section (*1*), sub-section (*2*) or sub-section (*3*)] a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

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1. Ins. by Act 42 of 1991, s. 8 (w.e.f. 18-9-1991).
2. Added by Act 21 of 1996, s. 3 (w.e.f.1-8-1996).
3. Ins. by s. 3, *ibid*. (w.e.f. 1-8-1996).
4. Ins. by Act 9 of 2003, s. 2 (w.e.f. 7-1-2003).
5. Subs. by s. 2, *ibid.* (w.e.f. 7-1-2003).
6. Cl. (*d*) omitted by s. 2, *ibid.* (w.e.f. 7-1-2003).
7. Sub-section (*3*) renumbered as sub-section (*4*) by Act 1 of 1989, s. 4 (w.e.f. 15-3-1989).
8. Subs. by s. 4, *ibid*., for certain words (w.e.f.15-3-1989).

Explanation.—In this section,—

(*a*) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—

(*i*) the regulation of production or manufacture of any essential commodity;
(*ii*) the control of price at which any essential commodity may be bought or sold;
(*iii*) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;
(*iv*) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;

(*b*) "drug" has the meaning assigned to it in the Durgs and Cosmetics Act, 1940 (23 of 1940);
(*c*) "essential commodity" has the meaning assigned to it in the Essential Commodity Act, 1955 (10 of 1955);
(*d*) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).

[1][**8A. Disqualification on ground of corrupt practices**.—(*1*) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, as soon as may be, after such order takes effect, by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

(*2*) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period.

(*3*) Before giving his decision on any question mentioned in sub-section (*1*) or on any petition submitted under sub-section (*2*), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.]

9. Disqualification for dismissal for corruption or disloyalty. —(*1*) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

(*2*) For the purposes of sub-section (*1*), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of the fact:

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

9A. Disqualification for Government contracts, etc. —A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

10. Disqualification for office under Government company. —A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a cooperative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share.

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1. Subs. by Act 40 of 1975, s. 2, for s. 8A.

10A. Disqualification for failure to lodge account of election expenses.—If the Election Commission is satisfied that a person—

(*a*) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and
(*b*) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

11. Removal or reduction of period of disqualification.—The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter [1][(except under section 8A)] or reduce the period of any such disqualification.

CHAPTER IV.—*Disqualifications for Voting*

11A. Disqualification arising out of conviction and corrupt practices.—[2][(*1*)] If any person, after the commencement of this Act,—

[3]* * * is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code (45 of 1860), or under section 125 or section 135 or clause (*a*) of sub-section (*2*) of section 136 of this Act, [4]* * *

[5]* * * * *

he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be is qualified for voting at any election.

[6][(*2*) Any person disqualified by a decision of the President under sub-section (*1*) of section 8A for any period shall be disqualified for the same period for voting at any election.

(*3*) The decision of the President on a petition submitted by any person under sub-section (*2*) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (*b*) of sub-section (*1*) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), as if such decision were a decision in respect of the said disqualification for voting also.]

11B. Removal of Disqualifications.—The Election Commission may, for reasons to be recorded, remove [7][any disqualification under sub-section (*1*) of section 11A].]

[8][PART III

NOTIFICATION OF GENERAL ELECTIONS

12. Notification for biennial election to the Council of States.—For the purpose of filling the seats of members of the Council of States retiring on the expiration of their term of office the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon the elected members of the Legislative Assembly or, as the case may be, the members of the electoral college, of each State concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder :

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.

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1. Ins. by Act 40 of 1975, s. 3.
2. S. 11A re-numbered as sub-section (*1*) thereof by s. 4, *ibid*.
3. The brackets and letter "(*a*)" omitted by Act 38 of 1978, s. 3 and the Second Sch.
4. The word "or" omitted by s. 3 and the Second Sch. *ibid*.
5. Cl.(*b*) omitted by Act 40 of 1975, s. 4.
6. Ins. by s. 4, *ibid*.
7. Subs. by s. 5, *ibid.*, for certain words.
8. Subs. by Act 27 of 1956, s. 7, for Part III (ss. 12 to 18).

[1][**12A. Notification for election to fill the seat allotted to the State of Sikkim in the Council of States.**—For the purpose of filling for the first time the seat allotted to the State of Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975 in the Council of States, the President shall, by a notification published in the Gazette of India, on such date as may be recommended by Election Commission, call upon the elected members of the Legislative Assembly of the State of Sikkim to elect a member in accordance with the provisions of this Act and of the rules and orders made thereunder and the election so held shall for all purposes and intent be deemed to have been held under section 12.]

13. [*Notification for reconstitution of electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act,* 1956 (103 *of* 1956), *s.* 66.

14. Notification for general election to the House of the People.—(*1*) A general election shall be held for the purpose of constituting a new House of the People on the expiration of the duration of the existing House or on its dissolution.

(*2*) For the said purpose the President shall, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, call upon all parliamentary constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing House of the People, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that House would expire under the provisions of clause (*2*) of article 83.

[1][**14A. Notification for electing the representative of the State of Sikkim to the existing House of the People.**—For the purpose of electing a representative of the State of Sikkim to the House of the People, specified in clause (*e*) of article 371F of the Constitution, the Election Commission shall call upon the members of the Legislative Assembly of the State of Sikkim to elect the representative in accordance with such of the provisions of this Act, and the rules and orders made thereunder, as are applicable to the election of the members of the Council of States.]

15. Notification for general election to a State Legislative Assembly.—(*1*) A general election shall be held for the purpose of constituting a new Legislative Assembly on the expiration of the duration of the existing Assembly or on its dissolution.

(*2*) For the said purpose, [2][the Governor or Administrator, as the case may be], [3]* * * shall by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon all Assembly constituencies in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that where a general election is held otherwise than on the dissolution of the existing Legislative Assembly, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of that Assembly would expire under the provisions of clause (*1*), of article 172 [3] * * * [4][or under the provisions of section 5 of the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.]

[5][**15A. Notification for certain elections to Legislative Councils**.—For the purpose of constituting the Legislative Council of the State of Madhya Pradesh under the States Reorganisation Act, 1956 (37 of 1956), and constituting the Legislative Council of the State of Andhra Pradesh under the Legislative Councils Act, 1957 (37 of 1957), the Governor of each of the aforesaid States shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission, call upon the members of the Legislative Assembly of the State and all the Council constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder.]

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1. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).
2. Subs. by Act 20 of 1963, s. 57 and the Second Sch., for "the Governor".
3. The words "Rajpramukh, Lieutenant-Governor or Chief Commissioner, as the case may be, omitted by the Adaptation of Laws (No. 2) Order, 1956.
4. Ins. by Act 20 of 1963, s. 57 and the Second Sch.
5. Ins. by Act 37 of 1957. s. 13.

16. Notification for biennial election to a State Legislative Council.—For the purpose of filling the seats of members of the Legislative Council of a State retiring on the expiration of their term of office, the Governor [1]* * * shall, by one or more notifications published in the Official Gazette of the State on such date or dates as may be recommended by the Election Commission call upon the members of the Legislative Assembly of the State and all the Council constituencies concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder:

Provided that no notification under this section shall be issued more than three months prior to the date on which the term of office of the retiring members is due to expire.]

PART IV

ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

19. Definition.—In this Part and in Part V, unless the context otherwise requires, "constituency" means [2]* * * a Parliamentary constituency or an Assembly constituency or a Council constituency.

[3][**19A. Delegation of functions of Election Commission**.—The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 (43 of 1950), and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission.]

[4][**20. General duties of chief electoral officers.**—Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.

[5][**20A. General duties of district election officer.**—(*1*) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(*2*) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

[6][**20B. Observers.**—(*1*) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

(*2*) The Observer nominated under sub-section (*1*) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(*3*) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

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1. The words "or Rajpramukh, as the case may be," omitted by the Adaptation of Laws (No. 2) Order, 1956.
2. Certain words omitted by Act 103 of 1956, s. 66.
3. Ins. by Act 47 of 1966, s. 21 (w.e.f. 14-12-1966).
4. Subs. by Act 27 of 1956, s. 9, for ss. 20 and 21.
5. Ins. by Act 47 of 1966, s. 22 (w.e.f. 14-12-1966).
6. Ins. by Act 21 of 1996, s. 4 (w.e.f. 1-8-1996).

Explanation.—For the purposes of sub-section (*2*) and sub-section (*3*), "Observer" shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or group of constituencies by the Commission.]

21. Returning officers.—For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be [1][an officer of Government or of a local authority]:

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.]

22. Assistant returning officers.—(*1*) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Provided that every such person shall be [1][an officer of Government or of a local authority].

(*2*) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate [2]* * * to the scrutiny of nominations [3]* * * unless the returning officer is unavoidably prevented from performing the said function.

23. Returning officer to include assistant returning officers performing the functions of the returning officer.—References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (*2*) of section 22.

24. General duty of the returning officer.—It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

[4][**25. Provision of polling stations for constituencies**.—The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.]

26. Appointment of presiding officers for polling stations.—(*1*) The [5][district election officer] shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the [5][district election officer] accordingly:

[6][Provided further that nothing in this sub-section shall prevent the [5][district election officer] from appointing the same person to be the presiding officer for more than one polling station in the same premises.]

(*2*) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

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1. Subs. by Act 47 of 1966, s. 23, for "an officer of Government".
2. Certain words omitted by Act 27 of 1956, s.10.
3. The words "or to the counting of votes" omitted by s. 10, *ibid*.
4. Subs. by Act 47 of 1966, s. 25, for s. 25 (w.e.f. 14-12-1966).
5 Subs. by s. 26, *ibid*., for "returning officer" (w.e.f. 14-12-1966).
6. Ins. by Act 27 of 1956, s.12.

(*3*) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorized by the [1][district election officer] to perform such functions during any such absence.

(*4*) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorized to perform under sub-section (*2*) or sub-section (*3*), as the case may be.

[2]* * * * *

27. General duty of the presiding officer.—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

28. Duties of a polling officer.—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

[3][**28A. Returning officer, presiding officer, etc., deemed to be on deputation to Election Commission**.—The returning officer, assistant returning officer, presiding officer, polling officer, and any other officer appointed under this Part, and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.

29. Special provisions in the case of certain elections.—(*1*) The returning officer for an election [4]* * * to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(*2*) The returning officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election.

[5][PART IVA

REGISTRATION OF POLITICAL PARTIES

29A. Registration with the Election Commission of associations and bodies as political parties.— (*1*) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(*2*) Every such application shall be made,—

(*a*) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

1. Subs. by Act 47 of 1966, s. 26, for "returning officer" (w.e.f. 14 -12-1966.)
2. Sub-section (*5*), ins. by s. 12, *ibid*. (w.e.f. 14-12-1966) and omitted by Act 2 of 2004, s.3.
3. Ins. by Act 1 of 1989, s. 5 (w.e.f. 15-3-1989.)
4. The words and brackets "(other than a primary election)" omitted by Act 27 of 1956, s. 13.
5. Ins. by Act 1 of 1989, s. 6 (w.e.f. 15-6-1989).

(*b*) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(*3*) Every application under sub-section (*1*) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(*4*) Every such application shall contain the following particulars, namely:—

(*a*) the name of the association or body;

(*b*) the State in which its head office is situate;

(*c*) the address to which letters and other communications meant for it should be sent;

(*d*) the names of its president, secretary, treasurer and other office-bearers;

(*e*) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(*f*) whether it has any local units; if so, at what levels;

(*g*) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(*5*) The application under sub-section (*1*) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(*6*) The Commission may call for such other particulars as it may deem fit from the association or body.

(*7*) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub—section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub—section (*5*).

(*8*) The decision of the Commission shall be final.

(*9*) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.]

[1][**29B. Political parties entitled to accept contribution.**—Subject to the provisions of the Companies Act, 1956 (1 of 1956), every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company:

Provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (*e*) of section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976).

1. Ins. by Act 46 of 2003, s. 2.

Explanation.—For the purposes of this section and section 29C,—

(*a*) "company" means a company as defined in section 3;

(*b*) "Government company" means a company within the meaning of section 617; and

(*c*) "contribution" has the meaning assigned to it under section 293A,

of the Companies Act, 1956 (1 of 1956) and includes any donation or subscription offered by any person to a political party; and

(*d*) "person" has the meaning assigned to it under clause (*31*) of section 2 of the Income-tax Act, 1961 (43 of 1961), but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

29C. Declaration of donation received by the political parties.—(*1*) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:—

(*a*) the contribution in excess of twenty thousand rupees received by such political party from any person in that financial year;

(*b*) the contribution in excess of twenty thousand rupees received by such political party from companies other than Government companies in that financial year.

(*2*) The report under sub-section (*1*) shall be in such form as may be prescribed.

(*3*) The report for a financial year under sub-section (*1*) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961), to the Election Commission.

(*4*) Where the treasurer of any political party or any other person authorised by the political party in this behalf fails to submit a report under sub-section (*3*) then, notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), such political party shall not be entitled to any tax relief under that Act.]

PART V
CONDUCT OF ELECTIONS

CHAPTER I.—*Nomination of Candidates*

[1][**30. Appointment of dates for nominations, etc**.—As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint —

(*a*) the last date for making nominations, which shall be the [2][seventh day] after the date of publication of the first-mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

1. Subs. by Act 27 of 1956, s. 14, for s. 30.
2. Subs. by Act 40 of 1961, s. 7, for "tenth day" (w.e.f. 20-9-1961).

(*b*) the date for the scrutiny of nominations, which shall be [1][the day immediately following] the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(*c*) the last date for the withdrawal of candidatures, which shall be [2][the second day] after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*d*) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the [3][fourteenth day] after the last date for the withdrawal of candidatures; and

(*e*) the date before which the election shall be completed.

[4]* * * * *]

31. Public notice of election. —On the issue of a notification under section 30, the returning officer [5]*** shall give public notice of the intended election in such form and manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

32. Nomination of candidates for election. —Any person may be nominated as a candidate for election to fill a seat [6]*** if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act [7]*** [8][or under the provisions of the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.]

[9][**33. Presentation of nomination paper and requirements for a valid nomination**. —(*1*) On or before the date appointed under clause (*a*) of section 30 each candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer :

[10][Provided that a candidate not set up by a recognised political party, shall not be deemed to be duly nominated for election form a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday:

Provided also that in the case of a local authorities' constituency, graduates' constituency or teachers' constituency, the reference to "an elector of the constituency as proposer" shall be construed as a reference to ten per cent. of the electors of the constituency or ten such electors, whichever is less, as proposers.]

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1. Subs. by Act 47 of 1966, s. 27, for "the second day after" (w.e.f. 14-12-1966).
2. Subs. by s. 27, *ibid*., for "the third day" (w.e.f. 14-12-1966).
3. Subs. by Act 21 of 1996, s. 5, for "twentieth day" (w.e.f. 1-8-1996).
4. *Explanation* omitted by Act 47 of 1966, s. 27 (w.e.f. 14-12-1966).
5. The words "for the constituency" omitted by s. 28, *ibid.* (w.e.f. 14-12-1966).
6. The words "in any constituency" omitted by Act 27 of 1956, s. 15.
7. Certain words ins. by s. 15, *ibid*., and omitted by the Adaptation of Laws (No. 2) Order, 1956.
8. Ins. by Act 20 of 1963, s. 57 and the Second Sch.
9. Subs. by Act 27 of 1956, s. 16, for s. 33.
10. Subs. by Act 21 of 1996, s. 6, for the provisos (w.e.f. 1-8-1996).

[1][(*1A*) Notwithstanding anything contained in sub-section (*1*) for election to the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed :

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and—

(*a*) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, also by at least twenty electors of the constituency as proposers and twenty electors of the constituency as seconders;

(*b*) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;

(*c*) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.]

(*2*) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

(*3*) Where the candidate is a person who, having held any office referred to in [2][section 9] has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(*4*) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls :

[3][Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.]

(*5*) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

[4][(*6*) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.]

[5][(*7*) Notwithstanding anything contained in sub-section (*6*) or in any other provisions of this Act, a person shall not be nominated as a candidate for election,—

(*a*) in the case of a general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies;

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1. Ins. by Act 10 of 1976, s. 2 and Sch. (w.e.f. 9-9-1975).
2. Subs. by Act 38 of 1978, s. 3 and the Second Sch., for "clause (*f*) of section 7".
3. Subs. by Act 47 of 1966, s. 29, for the proviso (w.e.f. 14-12-1966).
4. Subs. by Act 40 of 1961, s. 8, for sub-section (*6*) (w.e.f. 20-9-1961).
5. Ins. by Act 21 of 1996, s. 6 (w.e.f. 1-8-1996).

(*b*) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in that State;

(*c*) in the case of a biennial election to the Legislative Council of a State having such Council, from more than two Council constituencies in the State;

(*d*) in the case of a biennial election to the Council of States for filling two or more seats allotted to a State, for filling more than two such seats;

(*e*) in the case of bye-elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies;

(*f*) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies;

(*g*) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than two such seats;

(*h*) in the case of bye-elections to the Legislative Council of a State having such Council from two or more Council constituencies which are held simultaneously, from more than two such Council constituencies.

Explanation.— For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under section 147, section 149, section 150 or, as the case may be, section 151 on the same date.]

[1][**33A. Right to information.—**(*1*) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (*1*) or section 33, also furnish the information as to whether –

(*i*) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(*ii*) he has been convicted of an offence [other than any offence referred to in sub-section (*1*) or sub-section (*2*), or covered in sub-section (*3*), of section 8] and sentenced to imprisonment for one year or more.

(*2*) The candidate of his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (*1*) of section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form very fine the information specified in sub-section (*1*).

(*3*) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (*1*), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (*2*), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.]

[2][**33B. Candidate to furnish information only under the Act and the rules.—**Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election which is not required to be disclosed or furnished under this Act or the rules made thereunder.]

34. Deposits.—[3][(*1*) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,—

(*a*) in the case of an election from a Parliamentary constituency, a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees; and

1. Ins. by Act 72 of 2002, s. 2 (w.e.f. 24-8-2002).
2. Subs. by s. 3, *ibid.* (w.e.f. 2-5-2002).
3. Subs. by Act 21 of 1996, s. 7, for sub-section (*1*) (w.e.f. 1-8-1996).

(*b*) in the case of an election from an Assembly or Council constituency, a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand and five hundred rupees :

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.]

(*2*) Any sum required to be deposited under sub-section (*1*) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper [1][under sub-section (*1*) or, as the case may be, sub-section (*1A*) of section 33] the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

35. Notice of nominations and the time and place for their Scrutiny.—The returning officer shall, on receiving the nomination paper [1][under sub-section (*1*) or, as the case may be, sub-section (*1A*) of section 33], inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of [2][the proposer].

36. Scrutiny of nominations.—(*1*) On the date fixed for the scrutiny of nominations under section 30, the candidates, their election agents, one proposer [3]* * * of each candidate, and one other person duly authorized in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 33.

(*2*) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, [4][reject] any nomination on any of the following grounds:—

[5][(*a*) [6][that on the date fixed for the scrutiny of nominations the candidate] either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable, namely:—

Articles 84, 102, 173 and 191, [7]* * *

[8][Part II of this Act, and sections 4 and 14 of the Government of Union Territories Act, 1963 (20 of 1963)] [9]***; or

(*b*) that there has been a failure to comply with any of the provisions of section 33 or section 34 ; or

(*c*) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(*3*) Nothing contained in [10][clause (*b*) or clause (*c*)] of sub-section (*2*) shall be deemed to authorize the [11][rejection] of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

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1. Subs. by Act 10 of 1976, s. 2 and Sch., for certain words (w.e.f. 9-9-1975).
2. Subs. by Act 27 of 1956, s. 18, for certain words.
3. The words "and one seconder" omitted by s. 19, *ibid*.
4. Subs. by Act 27 of 1956, s. 19, for "refuse".
5. Subs. by s. 19, *ibid*., for cls. (*a*) to (*e*).
6. Subs. by Act 40 of 1961, s. 9, for "that the candidate" (w.e.f. 20-9-1961).
7. The word "and" ins. by the Adaptation of Laws (No. 2) Order, 1956 and omitted by Act 20 of 1963, s. 57 and the Second Sch.
8. Subs. by Act 20 of 1963, s. 57 and the Second Sch. for certain words.
9. Certain words omitted by the Adaptation of Laws (No. 2) Order, 1956.
10. Subs. by Act 27 of 1956, s. 19. for "clause (*c*), clause (*d*) or clause (*e*)".
11. Subs. by s. 19, *ibid*., for "refusal".

(*4*) The returning officer shall not reject any nomination paper on the ground of any [1]* * * defect which is not of a substantial character.

(*5*) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (*b*) of section 30 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case [2][an objection is raised by the returning officer or is made by any other person] the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(*6*) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

[3][(*7*) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in section 16 of the Representation of the People Act, 1950 (43 of 1950).

(*8*) Immediately after all the nomination papers have been scrutinized and decisions accepting or ejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to his notice board.]

37. Withdrawal of candidature.—(*1*) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three o'clock in the afternoon on the day fixed under clause (*c*) of section 30 to the returning officer either by such candidate in person or by his proposer, [4]* * * or election agent who has been authorized in this behalf in writing by such candidate.

[4]* * * * *

(*2*) No person who has given a notice of withdrawal of his candidature under sub-section (*1*) shall be allowed to cancel the notice.

[5][(*3*) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (*1*), cause the notice to be affixed in some conspicuous place in his office.]

[6][**38. Publication of list of contesting candidates**.— (*1*) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (*1*) of section 37, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates, that is to say, candidates who were included in the list of validily nominated candidates and who have not withdrawn their candidature within the said period.

[7][(*2*) For the purpose of listing the names under sub-section (*1*), the candidates shall be classified as follows, namely:—

(*i*) candidates of recognised political parties;
(*ii*) candidates of registered political parties other than those mentioned in clause (*i*);
(*iii*) other candidates.

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1. The word "technical" omitted by Act 27 of 1956, s. 19.
2. Subs. by Act 40 of 1961, s. 9, for "an objection is made" (w.e.f. 20-9-1961).
3. Subs. by Act 27 of 1956, s. 19, for sub-section (*7*).
4. The word "seconder" and the proviso omitted by s. 20, *ibid*.
5. Subs. by Act 40 of 1961, s. 10, for sub-section (*3*) (w.e.f. 20-9-1961).
6. Subs. by Act 27 of 1956, s. 21, for s. 38.
7. Subs. by Act 21 of 1996, s. 8, for sub-section (*2*) (w.e.f. 1-8-1996).

(*3*) The categories mentioned in sub-section (*2*) shall be arranged in the order specified therein and the names of candidates in each category shall be arranged in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be prescribed.]

[1][**39. Nomination of candidates at other elections**.—(*1*) As soon as the notification calling upon the elected members or the members of the Legislative Assembly of a State or the members of the electoral college of a [2][Union territory] to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

(*a*) the last date of making nominations, which shall be the [3][seventh day] after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*b*) the date for the scrutiny of nominations, which shall be [4][the day immediately following] the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*c*) the last date for the withdrawal of candidatures, which shall be [5][the second day] after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(*d*) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures; and

(*e*) the date before which the election shall be completed.

[6]* * * * *

(*2*) The provisions of sections 31 to 38, excluding sub-sections (*2*) and (*5*) of section 33 and [7][clause (*a*) of sub-section (*1*) of section 34], shall apply in relation to any such election as they apply in relation to an election in any constituency :

Provided that—

(*a*) any references in the said provisions to the electoral roll of the constituency shall, unless the context otherwise requires, be construed, in the case of an election by the members or the elected members of the Legislative Assembly of the State, as references to the list of members or elected members, as the case may be, of that Assembly maintained under sub-section (*1*) of section 152, and in the case of an election by the members of the electoral college of a [8][Union territory], as references to the list of members of such electoral college maintained under sub-section (*2*) of that section;

[9][(*aa*) the reference in the opening paragraph of sub-section (1) of section 33 to "an elector of the constituency as proposer" shall be construed as a reference to "ten per cent. of the elected members or of the members of the Legislative Assembly of a State or of the members of the electoral college of a Union territory, as the case may be, or ten members concerned, whichever is less, as proposers":

Provided that where as a result of the calculation of the percentage referred to in this clause, the number of members arrived at is a fraction and if the fraction so arrived at is more than one-half it shall be counted as one, and if the fraction so arrived at is less than one-half it shall be ignored;]

1. Subs. by Act 27 of 1956, s. 22, for s. 39.
2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".
3. Subs. by Act 40 of 1961, s. 11, for "tenth day" (w.e.f. 20-9-1961).
4. Subs. by Act 47 of 1966, s. 30, for "the second day after" (w.e.f. 14-12-1966).
5. Subs. by s. 30, *ibid*., for "the third day" (w.e.f. 14-12-1966).
6. *Explanation* omitted by s. 30, *ibid.* (w.e.f. 14-12-1966).
7. Subs. by Act 58 of 1958, s. 19, for " section 34".
8. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".
9. Ins. by Act 1 of 1989, s. 8 (w.e.f. 1-4-1989).

[1][[2][(*ab*)] in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (*a*) of sub-section (*2*) of section 36 shall be construed as including a reference to sub-clause (*d*) of clause (*3*) of article 171;]

(*b*) any reference in the said provisions to section 30 shall be construed as references to sub-section (*1*) of this section; and

(*c*) at the time of presenting the nomination paper, the returning officer may require the person presenting the same to produce either a copy of the electoral roll, or part of the electoral roll, in which the name of the candidate is included or a certified copy of the relevant entries in such roll.]

[3][**39A. Allocation of equitable sharing of time.**—(*1*) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, on the basis of the past performance of a recognised political party, during elections, allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.

(*2*) The allocation of equitable sharing of time under sub-section (*1*), in respect of an election, shall be made after the publication of list of contesting candidates under section 38 for the election and shall be valid till forty-eight ours before the hour fixed for poll for such election.

(*3*) The allocation of equitable sharing of time under sub-section (*1*) shall be binding on all political parties concerned.

(*4*) The Election commission may, for the purpose of this section, make code of conduct for cable operators and electronic media and the cable operators and every person managing or responsible for the management of the electronic media shall abide by such code of conduct.

Explanation.—For the purposes of this section,—

(*a*) "electronic media" includes radio and any other broadcasting media notified by the Central Government in the Official gazette;

(*b*) "cable television network" and "cable operator" have the meanings respectively assigned to them under the cable Television Networks (Regulation) Act, 1995 (7 of 1995).

CHAPTER II.—*Candidates and their agents*

[4][**40. Election agents**.—A candidate at an election may appoint in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer.]

[5][**41. Disqualification for being an election agent**.—Any person who is for the time being disqualified under the Constitution or under this Act for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.]

1. Ins. by Act 47 of 1966, s. 30 (w.e.f. 14-12-1966).
2. Cl.(*aa*) relettered as cl. (*ab*) by Act 1 of 1989, s. 8 (w.e.f. 1-4-1989).
3. Ins. by Act 46 of 2003, s. 3 (w.e.f. 24-9-2003).
4. Subs. by Act 27 of 1956, s. 23, for s. 40.
5. Subs. by Act 47 of 1966, s. 31, for s. 41 (w.e.f. 14-12-1966).

42. Revocation of the appointment, or death, of an election agent.—(*1*) Any revocation of the appointment of an election agent, [1]*** shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

[2][(*2*) In the event of such a revocation or of the death of an election agent whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 78, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

43. [*Effect of default in appointment of election agent under section* 42.] *Rep. by the Representation of the People* (*Second Amendment) Act*, 1956 (27 *of* 1956), *s.* 25.

44. [*Duty of the election agent to keep accounts*.] *Rep. by s.* 25, *ibid.*

[3][**45. Functions of election agents**.—An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.]

[4][**46. Appointment of polling agents**.—A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (*1*) of section 29 for the poll.]

[5][**47. Appointment of counting agents**.—A contesting candidate or his election agent may appoint in the prescri bed manner one or more persons, but not exceeding such number as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.]

48. Revocation of the appointment or death of a polling agent or counting agent.—(*1*) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to such officer as may be prescribed.

(*2*) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to the returning officer.

49. Functions of polling agents and counting agents.—(*1*) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(*2*) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

50. Attendance of contesting candidate or his election agent at polling stations, and performance by him of the functions of a polling agent or counting agent.— (*1*) At every election where a poll is taken, each [6][contesting candidate] at such election and his election agent shall have a right to be present at any polling station provided under section 25 for the taking of the poll or at the place fixed under sub-section (*1*) of section 29 for the poll.

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1. The words "whether he be the candidate himself or not" omitted by Act 27 of 1956, s. 24.
2. Subs. by s. 24, *ibid*., for sub-section (*2*).
3. Subs. by s. 26, *ibid*., for s. 45.
4. Subs. by s. 27, for s. 46 , *ibid*.
5. Subs. by Act 27 of 1956, s. 28, *ibid*., for s. 47.
6. Subs. by Act 58 of 1958, s. 20, for "candidate".

(*2*) A [1][contesting candidate] or his election agent may himself do any act or thing which any polling agent or the counting agent of such [6][contesting candidate] if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such [2][contesting candidate] in doing any such act or thing.

51. Non-attendance of polling or counting agents.— Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

CHAPTER III.—*General Procedure at Elections*

[2][**52. Death of candidate of reorganised political party before poll**.— (*1*) If a candidate, set up by a recognised political party,—

(*a*) dies at any time after 11 A.M. on the last date for making nomination and his nomination is found valid on scrutiny under section 36; or

(*b*) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies;

and in either case, a report of his death is received at any time before the publication of the list of contesting candidate under section 38; or

(*c*) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order announce an adjournment of the poll to a date to be notified later and report the fact to the Election Commission and also to the appropriate authority:

Provided that no order for adjourning a poll should be made in a case referred to in clause (*a*) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

(*2*) The Election Commission shall, on receipt of a report from the returning officer under sub-section (*1*), call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised political party and the provisions of sections 30 to 37 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations:

Provided that no person who has given a notice of withdrawal of his candidature under sub-section (*1*) of section 37 before the adjournment of the poll shall be ineligible for being nominated as a candidate for election after such adjournment.

(*3*) Where a list of contesting candidates had been published under section 38 before the adjournment of the poll under sub-section (*1*), the returning officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (*2*).

Explanation.—For the purposes of this section, sections 33 and 38, "recognised political party" means a political party reorganised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.]

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1. Subs. by Act 58 of 1958, s. 20, for "candidate".
2. Subs. by Act 2 of 1992, s. 2, for s. 52 and again subs. by Act 21 of 1996, s. 9 (w.e.f.1-8-1996).

53. Procedure in contested and uncontested elections.—[1][(1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken.]

(2) If the number of such candidates is equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(*3*) If the number of such candidates is less than the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be elected and the [2][Election Commission] shall, by notification in the Official Gazette, call upon the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college concerned [3]***, as the case may be, to elect a person or persons to fill the remaining seat or seats [4]*** :

Provided that where the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college [3]*** having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the [2][Election Commission] shall not be bound to call again upon the constituency, or such members to elect a person or persons 5[until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members].

54. [*Special procedure at elections in constituencies where seats are reserved for Scheduled Castes or Scheduled Tribes.*] *Rep. by the Representation of the People* (*Amendment*) *Act*, 1961 (40 of 1961), *s*. 12 (*w.e.f.* 20-9-1961).

55. Eligibility of members of Scheduled Castes or Scheduled Tribes to hold seats not reserved for those castes or tribes.—For the avoidance of doubt it is hereby declared that a member of the Scheduled Castes or of the Scheduled Tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seats under the Constitution and this Act [6][or under the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.]

[7][**55A**. [*Retirement from contest at elections in Parliamentary and Assembly constituencies.*] *Rep. by the Representation of the People (Amendment) Act*, 1958 (58 of 1958), *s*. 22.

CHAPTER IV.— *The Poll*

56. Fixing time for poll.—The [8][Election Commission] shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in [9][a Parliamentary or Assembly constituency] shall not be less than eight hours.

57. Adjournment of poll in emergencies.—(*1*) If at an election the proceedings at any polling station provided under section 25 or at the place fixed under sub-section (*1*) of section 29 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the returning officer concerned.

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1. Subs. by Act 27 of 1956, s. 30, for sub-section (*1*).
2. Subs. by s. 30, *ibid*., for "appropriate authority".
3. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and the Fifth Sch.
4. The words "before such date as may be appointed in this behalf by the Election Commission and specified in the notification " omitted by Act 27 of 1956, s. 30.
5. Subs. by s. 30, *ibid*., for "until such date as the Election Commission may specify in this behalf".
6. Ins. by Act 20 of 1963, s. 57 and the Second Schedule. The words "or under the Government of Part C States Act, 1951 (49 of 1951), as the case may be" ins. by Act 27 of 1956, s. 32, and omitted by the Adaptation of Laws (No. 2) Order, 1956.
7. Ins. by Act 27 of 1956, s. 33.
8. Subs. by s. 34, *ibid*., for "appropriate authority".
9. Subs. by Act 58 of 1958, s. 23, for "a constituency".

(*2*) Whenever a poll is adjourned under sub-section (*1*), the returning officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which and the hours during which the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(*3*) In every such case as aforesaid; the returning officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (*2*).

[1][**58. Fresh poll in the case of destruction, etc., of ballot boxes.**—(*1*) If at any election,—

(*a*) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or

[2][(*aa*) any voting machine develops a mechanical failure during the course of the recording of votes; or]

(*b*) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

the returning officer shall forthwith report the matter to the Election Commission.

(*2*) Thereupon the Election Commission shall, after taking all material circumstances into account; either—

(*a*) declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(*b*) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that [5][the mechanical failure of the voting machine or] the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(*3*) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

[3][**58A. Adjournment of poll or countermanding of election on the ground of booth capturing.**—(*1*) If at any election,—

(*a*) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

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1. Subs. by Act 40 of 1961, s. 13, for s. 58 (w.e.f. 20-9-1961).
2. Ins. by Act 1 of 1989, s. 9 (w.e.f. 15-3-1989).
3. Ins. by Act 1 of 1989, s. 10, *ibid*. (w.e.f. 15-3-1989).

(*b*) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained,

the returning officer shall forthwith report the matter to the Election Commission.

(*2*) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (*1*) and after taking all material circumstances into account, either—

(*a*) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(*b*) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation.—In this section, "booth capturing" shall have the same meaning as in section 135A.]

59. Manner of voting at elections.—At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, [1][and, save as expressly provided by this Act, no votes shall be received by proxy:]

[2][Provided that the votes at every election to fill a seat or seats in the Council of States shall be given by open ballot.]

[3][**60. Special procedure for voting by certain classes of persons**.—Without prejudice to the generality of the provisions contained in section 59, provision may be made, by rules made under this Act, for enabling,—

(*a*) any of the persons as is referred to in clause (*a*) or clause (*b*) of sub-section (*8*) of section 20 of the Representation of the People Act, 1950 (43 of 1950), (hereinafter in this section referred to as the 1950-Act) to give his vote either in person or by postal ballot or by proxy, and not in any other manner, at an election in a constituency where poll is taken;

(*b*) any of the following persons to give his vote either in person or by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, namely:—

(*i*) any person as is referred to in clause (*c*) or clause (*d*) of sub-section (*8*) of section 20 of the 1950-Act;

(*ii*) the wife of any such person to whom the provisions of sub-section (*3*) of section 20 of the 1950-Act apply and such wife being ordinarily residing with that person in terms of sub-section (*6*) of that section;

(*c*) any person belonging to a class of persons notified by the Election Commission in consultation with the Government to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken subject to the fulfilment of such requirement as may be specified in those rules.

(*d*) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, subject to the fulfilment of such requirements as may be specified in those rules.]

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1. Subs. by Act 24 of 2003, s. 2 (w.e.f. 22-9-2003).
2. Ins. by Act 40 of 2003, s. 3.
3. Subs. by Act 24 of 2003, s. 3, (w.e.f. 22-9-2003).

[1][**61. Special procedure for preventing personation of electors**.—With a view to preventing personation of electors provision may be made by rules made under this Act:—

(*a*) for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(*b*) for the production before the presiding officer or a polling officer of a polling station by every such elector as aforesaid of his identity card before the delivery of a ballot paper or ballot papers to him if under rules made in that behalf under the Representation of the People Act, 1950 (43 of 1950), electors of the constituency in which the polling station is situated have been supplied with identity cards with or without their respective photographs attached thereto; and

(*c*) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the presiding officer or a polling officer of the polling station.]

[2][**61A. Voting machines at elections**.—Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Explanation.—For the purpose of this section, "voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.]

62. Right to vote.—(*1*) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of by any constituency shall be entitled to vote in that constituency.

(*2*) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (43 of 1950).

(*3*) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(*4*) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

1. Subs. by Act 58 of 1958, s. 25, for s. 61.
2. Ins. by Act 1 of 1989, s. 11 (w.e.f. 15-3-1989).

(*5*) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

[1][(*6*) Nothing contained in sub-sections (*3*) and (*4*) shall apply to a person who has been authorised to vote as proxy for an elector under this Act in so far as he votes as a proxy for such elector.].

63. [*Method of voting.*] *Rep. by the Representation of the People (Amendment) Act,* 1961 (40 *of* 1961), *s.* 14 (*w.e.f.*20-9-1961).

CHAPTER V.—*Counting of Votes*

64. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the [2][supervision and direction] of, the returning officer, and each [3][contesting candidate], his election agent and his [4][counting agents], shall have a right to be present at the time of counting.

[5][**64A. Destruction, loss, etc., of ballot papers at the time of counting**.—(*1*) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

(*2*) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

(*a*) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(*b*) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(*3*) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.]

65. Equality of votes.—If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

66. Declaration of results.—When the counting of the votes has been completed, the returning officer [6][shall, in the absence of any direction by the Election Commission to the contrary, forthwith declare] the result of the election in the manner provided by this Act or the rules made thereunder.

67. Report of the result.—As soon as may be after the result of an election has been declared, the returning officer shall report the result to the appropriate authority and the Election Commission, and in the case of an election to a

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1. Ins. by Act 24 of 2003, s. 4 (w.e.f. 22-9-2003).
2. Subs. by Act 27 of 1956, s. 36, for "supervision".
3. Subs. by Act 58 of 1958, s. 26, for "candidate".
4. Subs. by Act 27 of 1956, s. 36, for "counting agent".
5. Ins. by Act 47 of 1966, s. 34 (w.e.f. 14-12-1966).
6. Subs. by s. 35, *ibid.*, for "shall forthwith declare" (w.e.f. 14-12-1966).

House of Parliament or of the Legislature of a State also to the Secretary of that House, and the appropriate authority shall cause to be published in the Official Gazette the declarations containing the names of the elected candidates.

[1][**67A. Date of election of candidate.**—For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 53, [2]***, [3]*** or section 66, to be elected to a House of Parliament or of the Legislature of a State [4]*** shall be the date of election of that candidate.]

CHAPTER VI.—*Multiple Elections*

68. Vacation of seats when elected to both Houses of Parliament.—(*1*) Any person who is chosen a member of both the Houses of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission [5][within ten days from the date, or the later of the dates, on which he is so chosen, intimate] in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

(*2*) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(*3*) Any intimation given under sub-section (*1*) shall be final and irrevocable.

[6][(*4*) For the purposes of this section and of section 69, the date on which a person is chosen to be a member of either House of Parliament shall be in the case of an elected member, the date of his election and in the case of a nominated member, the date of first publication in the Gazette of India of his nomination.]

69. Vacation of seats by persons already members of one House on election to other House of Parliament.—(*1*) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, [7][on the date on which he is so chosen], become vacant.

(*2*) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People, his seat in the Council of States shall, [7][on the date on which he is so chosen], become vacant.

*__70. Election to more than one seat in either House of Parliament or in the House or either House of the legislature of a State.__—If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats [8][by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed], all the seats shall become vacant.

CHAPTER VII.—*Publication of election Results and Nominations*

[9][**71. Publication of results of elections to the Council of States and of names of persons nominated by the President**.—After the elections held in any year in pursuance of the notifications issued under section 12, there shall be notified by the appropriate authority in the Official Gazette the names of members elected by the elected members of the

1. Ins. by Act 27 of 1956, s. 37.
2. The word and figures "section 54" omitted by Act 40 of 1961, s. 15 (w.e.f. 20-9-1961).
3. The word, figures and letter " section 55A " omitted by Act 58 of 1958, s. 27.
4. Certain words omitted by Act 103 of 1956, s. 66.
5. Subs. by Act 27 of 1956, s. 38, for certain words.
6. Ins. by s. 38, *ibid*.
7. Subs. by s. 39, *ibid*., for "on the publication in the Gazette of India of the declaration that he hits been so chosen".
8. Ins. by s. 40, *ibid*.
9. Subs. by s. 41, *ibid*., for ss. 71 to 75.

* *See* rule 91 of the Conduct of Election Rules, 1961 (page 76 of Vol. II). In relation to Prohibition relating to membership both of Parliament and of a House of the Legislature of a State, see also the Prohibition of Simultaneous Membership Rules, 1950 published under articles 101(2) and 190(2) of the Constitution vide Notification No.F.46/50—C, dated 26th January, 1950, in the Gazette of India, Extraordinary, page 678 (Pages 140 of Vol. I).

Legislative Assemblies of the States and by the members of the electoral colleges for the various [1][Union territories] at the said elections together with the names of any persons nominated by the President of the Council of States under sub-clause (*a*) of clause (*1*) of article 80 or under any other provisions.

72. [*Publication of results of elections for the reconstitution of electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s*. 66.

73. Publication of results of general elections to the House of the People and the State Legislative Assemblies.— Where a general election is held for the purpose of constituting a new House of the People or a new State Legislative Assembly, there shall be notified by [2][the Election Commission] in the Official Gazette, as soon as may be after [3][the results of the elections in all the constituencies] [other than those in which the poll could not be taken for any reason on the date originally fixed under clause (*d*) of section 30 or for which the time for completion of the election has been extended under the provisions of section 153] have been declared by the returning officer under the provisions of section 53 or, as the case may be, section 66, the names of the members elected for those constituencies] [4]* * * and upon the issue of such notification that House or Assembly shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed—

[5][(*a*) to preclude—

(*i*) the taking of the poll and the completion of the election in any Parliamentary or Assembly constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (*d*) of section 30; or

(*ii*) the completion of the election in any Parliamentary or Assembly constituency or constituencies for which time has been extended under the provisions of section 153; or]

(*b*) to affect the duration of the House of the People or the State Legislative Assembly, if any, functioning immediately before the issue of the said notification.

[6][**73A. Special provisions as to certain elections**.—Notwithstanding anything contained in section 73 or in any other provision of this Act, with respect to the general election for the purpose of constituting a new House of the People upon dissolution of the Ninth House of the People,—

(*a*) the notification under section 73 may be issued without taking into account the Parliamentary constituencies in the State of Jammu and Kashmir; and

(*b*) the Election Commission may take the steps in relation to elections from the Parliamentary constituencies in the State of Jammu and Kashmir separately and in such manner and no such date or dates as it may deem appropriate.]

74. Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.—After the elections held [7][in pursuance of the notifications issued under section 15A or] in any year in pursuance of the notifications issued under section 16, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor [8]*** under sub-clause (*e*) of clause (*3*) of article 171.]

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1. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C States".
2. Subs. by Act 40 of 1961, s. 16, for "the appropriate authority" (w.e.f. 20-9-1961).
3. Subs. by Act 10 of 1967, s. 2, for certain words.
4. Certain words omitted by Act 40 of 1961, s. 16 (w.e.f. 20-9-1961).
5. Subs. by Act 10 of 1967, s. 2, for cl. (*a*).
6. Subs. by Act 31 of 1991, s. 2, for ss 73A and 73AA (w.e.f. 18-4-1991).
7. Ins. by Act 37 of 1957, s. 13.
8. The words " or Rajpramukh, as the case may be" omitted by the Adapatation of Laws (No. 2) Order, 1956.

[1][CHAPTER VIIA.—DECLARATION OF ASSETS AND LIABILITIES

75A. Declaration of assets and liabilities.—(*1*) Every elected candidate for a House of Parliament shall**,** within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to—

(*i*) the movable and immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;

(*ii*) his liabilities to any public financial institution; and

(*iii*) his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(*2*) The information under sub-section (*1*) shall be furnished in such form and in such manner as may be prescribed in the rules made under sub-section (*3*).

(*3*) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may make rules for the purposes of sub-section (*2*).

(*4*) The rules made by the Chairman of the Council of States or the Speaker of the House of the People, under sub-section (*3)* shall be laid, as soon as may be after they are made, before the Council of States or the House of the People, as the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council of States or the House of the People and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(*5*) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct that any wilful contravention of the rules made under sub-section (*3*) by an elected candidate for a House of Parliament referred to in sub-section (*1*) may be dealt with in the same manner as a breach of privilege of the Council of States or the House of the People, as the case may be.

Explanation.—For the purposes of this section,—

(*i*) "immovable property" means the land and includes any building or other structure attached to the land or permanently fastened to anything which is attached to the land;

(*ii*) "movable property" means any other property which is not the immovable property and includes corporeal and incorporeal property of every description;

(*iii*) "public financial institution" means a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1of 1956), and includes bank;

(*iv*) "bank" referred to in clause (*iii*) means—

(*a*) State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);

(*b*) subsidiary bank having the meaning assigned to it in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(*c*) Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);

(*d*) corresponding new bank having the meaning assigned to it in clause (*da*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949); and

(*e*) co-operative bank having the meaning assigned to it in clause (*cci*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) as modified by sub-clause (*i*) of clause (*c*) of section 56 of that Act; and

(*v*) "dependant children" means sons and daughters who have no separate means of earning and are wholly dependant on the elected candidate referred to in sub-section (*1*) for their livelihood.]

1. Ins. by Act 72 of 2002, s. 4 (w.e.f. 24-8-2002).

CHAPTER VIII.—*Election Expenses*

[1][**76. Application of Chapter**.—This Chapter shall apply only to the elections to the House of the People and to the Legislative Assembly of a State.

77. Account of election expenses and maximum thereof.—(*1*) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between [2][the date on which he has been nominated] and the date of declaration of the result thereof, both dates inclusive.

[3][*Explanation* 1.—For the removal of doubts, it is hereby declared that—

(*a*) the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section.

(*b*) any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (*7*) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

Explanation 2.—For the purposes of clause (*a*) of *Explanation* 1, the expression "leaders of a political party", in respect of any election, means,—

(*i*) where such political party is a recognised political party, such persons not exceeding forty in number, and

(*ii*) where such political party is other than a recognised political party, such persons not exceeding twenty in number,

whose names have been communicated to the Election Commission and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State, as the case may be, under this Act:

Provided that a political party may, in the case where any of the persons referred to in clause (*i*) or, as the case may be, in clause (*ii*) dies or ceases to be a member of such political party, by further communication to the Election Commission and the Chief Electoral Officers of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.]

(*2*) The account shall contain such particulars, as may be prescribed.

(*3*) The total of the said expenditure shall not exceed such amount as may be prescribed.

78. Lodging of account with the district election officer.—[4][(*1*)] Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the [5][district election officer] an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under section 77.]

[6]* * * * *

1. Subs. by Act 27 of 1956, s. 42, for ss. 76 to 78.
2. Subs. by Act 40 of 1975, s. 6, for certain words (retrospectively).
3. Subs. by Act 46 of 2003, s. 4, for the *Explanation*.
4. S. 78 re-numbered as sub-section (*1*) of that section by Act 47 of 1966, s. 36.
5. Subs. by Act 47 of 1966, s. 36, for "returning officer".
6. Ins. by s. 36, *ibid*. (w.e.f. 14-12-1966) and omitted by Act 2 of 2004, s. 3(*b*).

[1][PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

78A. Free supply of copies of electoral rolls.—(*1*) The Government shall, at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950 (43 of 1950) and such other material as may be prescribed.

(*2*) The material referred to in sub-section (*1*) shall be supplied,—

(*i*) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(*ii*) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

78B. Supply of certain items to candidates, etc.—(*1*) The Election Commission shall, at any time between the date of publication of the notification calling the election for the purposes of consitituting the House of the People or the Legislative Assembly of a State and the date on which the poll is to be taken, supply or cause to be supplied, such items as the Central Government may, by order, determine in consultation with the Election Commission, to the electors in the constituencies concerned or to the candidates set up by the recognised political parties.

(*2*) Where the Election Commission supplies the items to the candidates under sub-section (*1*), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.

Explanation.—For the purposes of section 39A, this Chapter and clause (*hh*) of sub-section (*2*) of section 169, the expression “recognised political party”, has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.].

PART VI

DISPUTES REGARDING ELECTIONS

CHAPTER I.—*Interpretation*

79. Definitions.—In this Part and in [2][Part VII] unless the context otherwise requires,—

[3][(*a*) any reference to a High Court or to the Chief Justice or Judge of a High Court shall, in relation to a Union territory having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be;]

[4][(*b*) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election;]

(*c*) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(*d*) "electoral right" means the right of a person to stand or not to stand as, or [5][to withdraw or not to withdraw] from being, a candidate, or to vote or refrain from voting at an election;

[6][(*e*) "High Court" means the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held;]

(*f*) "returned candidate" means a candidate whose name has been published under section 67 as duly elected.

1. Ins. by Act 46 of 2003, s. 5.
2. Subs. by Act 47 of 1966, s. 37, for Parts VII and VIII.
3. Ins. by s. 37, *ibid*., Original cl. (*a*) was omitted by Act 27 of 1956, s. 43.
4. Subs. by Act 40 of 1975, s. 7, for cl. (*b*) (retrospectively).
5. Subs. by Act 47 of 1966, s. 37, for "to withdraw" (w.e.f. 14-12-1966).
6. Subs. by s. 37, *ibid*., for cl. (*e*) (w.e.f. 14-12-1966).

CHAPTER II.—*Presentation of Election Petitions to* [1][*High Court*]

80. Election petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

[2][**80A. High Court to try election petitions**.—(*1*) The Court having jurisdiction to try an election petition shall be the High Court.

(*2*) Such jurisdiction shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice shall, from time to time, assign one or more Judges for that purpose:

Provided that where the High Court consists only of one Judge, he shall try all election petitions presented to that Court.

(*3*) The High Court in its discretion may, in the interests of justice or convenience, try an election petition, wholly or partly, at a place other than the place of seat of the High Court.]

81. Presentation of petitions.—(*1*) An election petition calling in question any election may be presented on one or more of the grounds specified in [3][sub-section (*1*)] of section 100 and section 101 to the [4][High Court] by any candidate at such election or any elector [5][within forty-five days from, but not earlier than the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates].

Explanation.—In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

[6]* * * * *

[7][(*3*) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition [8]***, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.]

[9][**82. Parties to the petition.**—A petitioner shall join as respondents to his petition—

(*a*) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(*b*) any other candidate against whom allegations of any corrupt practice are made in the petition.]

[10][**83. Contents of petition**.—(*1*) An election petition—

(*a*) shall contain a concise statement of the material facts on which the petitioner relies;

(*b*) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

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1. Subs. by Act 47 of 1966, s. 39, for "Election Commission" (w.e.f. 14-12-1966).
2. Ins. by s. 38, *ibid*. (w.e.f. 14-12-1966).
3. Subs. by Act 27 of 1956, s. 44, for "sub-sections (*1*) and (*2*)".
4. Subs. by Act 47 of 1966, s. 39, for "Election Commission" (w.e.f.14-12-1966).
5. Subs. by Act 27 of 1956, s. 44, for certain words.
6. Sub-section (*2*) omitted by Act 47 of 1966, s. 39 (w.e.f. 14-12-1966).
7. Ins. by Act 40 of 1961, s. 17 (w.e.f. 20-9-1961).
8. Certain words omitted by Act 47 of 1966, s. 39 (w.e.f. 14-12-1966).
9. Subs. by Act 27 of 1956, s. 45, for s. 82.
10. Subs. by s. 46, *ibid*., for s. 83.

(*c*) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

[1][Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.]

(*2*) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.]

[2][**84. Relief that may be claimed by the petitioner**.—A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.]

85. [*Procedure on receiving petition*.] *Rep. by the Representation of the People (Amendment) Act,* 1966 (47 *of* 1966), *s*. 40.

CHAPTER III.—*Trial of Election Petitions*

[3][**86. Trial of election petitions**.—(*1*) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (*a*) of section 98.

(*2*) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (*2*) of section 80A.

(*3*) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(*4*) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(*5*) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(*6*) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(*7*) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

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1. Ins. by Act 40 of 1961, s. 18 (w.e.f. 20-9-1961).
2. Subs. by Act 27 of 1956, s. 47, for s. 84.
3. Subs. by Act 47 of 1966, s. 41, for ss. 86 to 92 (w.e.f. 14-12-1966).

87. Procedure before the High Court.—(*1*) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits:

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(*2*) The provisions of the Indian Evidence Act, 1872 (1 of 1972), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.]

93. Documentary evidence.—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

94. Secrecy of voting not to be infringed.—No witness or other person shall be required to state for whom he has voted at an election:

[1][Provided that this section shall not apply to such witness or other person where he has voted by open ballot.].

95. Answering of criminating questions and certificate of indemnity.—(*1*) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that—

(*a*) a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from [2][the High Court]; and

(*b*) an answer given by a witness to a question put by or before [1][the High Court] shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(*2*) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code, 1860 (45 of 1860), or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

96. Expenses of witnesses.—The reasonable expenses incurred by any person in attending to give evidence may be allowed by [2][the High Court] to such person and shall, unless [2][the High Court] otherwise directs, be deemed to be part of the costs.

97. Recrimination when seat claimed.—(*1*) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of [3][commencement of the trial], given notice to [2][the High Court] of his intention to do so and has also given the security and the further security referred to in sections 117 and 118 respectively.

(*2*) Every notice referred to in sub-section (*1*) shall be accompanied by the statement and [4]* * * particulars required by section 83 in the case of an election petition and shall be signed and verified in like manner.

98. Decision of the High Court.—At the conclusion of the trial of an election petition [2][the High Court] shall make an order—

(*a*) dismissing the election petition; or

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1. Ins. by Act 40 of 2003, s. 4.
2. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).
3. Subs. by Act 27 of 1956, s. 52, for "the publication of the election petition under section 90".
4. The words "list of" omitted by s. 52, *ibid*.

(*b*) declaring the election of [1][all or any of the returned candidates] to be void; or

(*c*) declaring the election, of [1][all or any of the returned candidates] to be void and the petitioner or any other candidate to have been duly elected. [2]* * *

[2]* * * * *

99. Other orders to be made by the High Court.—(*1*) At the time of making an order under section 98 [3][the High Court] shall also make an order—

[4][(*a*) where any charge is made in the petition of any corrupt practice having been committed at the election, recording—

(*i*) a finding whether any corrupt practice has or has not been proved to have been committed [5]*** at the election, and the nature of that corrupt practice; and

(*ii*) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and]

(*b*) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that [6][a person who is not a party to the petition shall not be named] in the order under sub-clause (*ii*) of clause (*a*) unless—

(*a*) he has been given notice to appear before [3][the High Court] and to show cause why he should not be so named; and

(*b*) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by [3][the High Court] and has given evidence against him, of calling evidence in his defence and of being heard.

[7][(*2*) In this section and in section 100, the expression "agent" has the same meaning as in section 123.]

100. Grounds for declaring election to be void.—[8][(*1*) Subject to the provisions of sub-section (*2*) if [3][the High Court] is of opinion—

(*a*) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [9][or the Government of Union Territories Act, 1963 (20 of 1963)]; or

(*b*) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

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1. Subs. by Act 27 of 1956, s. 53, for "the returned candidate".
2. The word "or" and clause (*d*) omitted by s. 53, *ibid*.
3. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).
4. Subs. by Act 27 of 1956, s. 54, for cl. (*a*).
5. Certain words omitted by Act 58 of 1958, s. 29.
6. Subs. by Act 27 of 1956, s. 54, for " no person shall be named".
7. Subs. by s. 54, *ibid.*, for sub-section (*2*).
8. Subs. by s. 55, *ibid.*, for sub-sections (*1*) and (*2*).
9. Ins. by Act 20 of 1963, s. 57 and the Second Sch. the words "or the Government of Part C States Act, 1951 (49 of 1951)" were omitted by the Adaptation of Laws (No. 2) Order, 1956.

(*c*) that any nomination has been improperly rejected; or

(*d*) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(*i*) by the improper acceptance or any nomination, or

(*ii*) by any corrupt practice committed in the interests of the returned candidate [1][by an agent other than his election agent], or

(*iii*) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(*iv*) by any non—compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

[2][the High Court] shall declare the election of the returned candidate to be void.]

[3][(*2*)] If in the opinion of [2][the High Court], a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice [4]*** but [2][the High Court] is satisfied—

(*a*) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and [5][without the consent], of the candidate or his election agent;

[6]* * * * *

(*c*) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt [7]*** practices at the election; and

(*d*) that in all other respects the election was free from any corrupt [7]*** practice on the part of the candidate or any of his agents,

then [2][the High Court] may decide that the election of the returned candidate is not void.

101. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and [2][the High Court] is of opinion—

(*a*) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(*b*) that but for the votes obtained by the returned candidate by corrupt [8]* * * practices the petitioner or such other candidate would have obtained a majority of the valid votes,

[2][the High Court] shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

102. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates,—

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1. Subs. by Act 58 of 1958, s. 30, for certain words.
2. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).
3. Sub-section (*3*) re-numbered as sub-section (*2*) by Act 27 of 1956, s. 55.
4. The words and figures "specified in section 123 " omitted by s. 55, *ibid.*
5. Subs. by s. 55, *ibid*., for " without the sanction or connivance".
6. Cl. (*b*) omitted by Act 58 of 1958, s. 30.
7. The words "or illegal" omitted by Act 27 of 1956, s. 55.
8. The words "or illegal" omitted by s. 56, *ibid.*

(*a*) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(*b*) in so far as that question is not determined by such a decision [1][the High Court] shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote,

[2][**103. Communication of orders of the High Court**.—The High Court shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision.]

104. [*Difference of opinion among the members of the Tribunal*.] *Rep. by the Representation of the People (Second Amendment) Act*, 1956 (27 *of* 1956), *s.* 57.

105. [*Orders of the Tribunal to be final and conclusive.*] *Rep. by s.* 58, *ibid.*

106. Transmission of order to the appropriate authority, etc., and its publication.—As soon as may be after the receipt of any order made by [3][the High Court] under section 98 or section 99, the Election Commission shall forward copies of the order to the appropriate authority and, in the case where such order relates to an election [4]*** to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned and [5][shall cause the order to be published—

(*a*) where the order relates to an election to a House of Parliament, in the Gazette of India as well as in the Official Gazette of the State concerned; and

(*b*) where the order relates to an election to the House or a House of the Legislature of the State, in the Official Gazette of the State.]

[6][**107. Effect of orders of the High Court.**—[7][(*1*) Subject to the provisions contained in Chapter IVA relating to the stay of operation of an order of the High Court under section 98 or section 99, every such order shall take effect as soon as it is pronounced by the High Court.]

(*2*) Where by an order under section 98 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of Parliament or as a member of the Legislature of a State shall not be invalidated by reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.]

CHAPTER IV.—*Withdrawal and Abatement of Election Petitions*

108. [*Withdrawal of petitions before appointment of Tribunal*.] *Rep. by the Representation of the People (Amendment) Act*, 1966 (47 *of* 1966), *s.* 45.

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1. Subs. by Act 47 of 1966, s. 42, for "the Tribunal" (w.e.f. 14-12-1966).
2. Subs. by s. 43, *ibid*., for s. 103 (w.e.f. 14-12-1966).
3. Subs. by s. 44, *ibid.*, for "the Tribunal " (w.e.f. 14-12-1966).
4. The words and brackets "(other than a primary election)" omitted by Act 27 of 1956, s. 59.
5. Subs. by s. 59, *ibid*., for certain words.
6. Subs. by s. 60, *ibid.*, for s. 107.
7. Subs. by Act 47 of 1966, s. 44, for sub-section (*1*) (w.e.f. 14-12-1966).

[1][**109. Withdrawal of election petitions**.—(*1*) An election petition may be withdrawn only by leave of the High Court.

(*2*) Where an application for withdrawal is made under sub-section (*1*), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

110. Procedure for withdrawal of election petitions.—(*1*) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(*2*) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(*3*) If the application is granted—

(*a*) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the High Court may think fit;

(*b*) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;

(*c*) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.]

111. Report of withdrawal by the High Court to the Election Commission.—When an application for withdrawal is granted by [2][the High Court] and no person has been substituted as petitioner under clause (*c*) of sub-section (*3*) of section 110, in place of the party withdrawing, [2][the High Court] shall report the fact to the Election Commission [3][and thereupon the Election Commission shall publish the report in the Official Gazette].

[4][**112. Abatement of election petitions**.—(*1*) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(*2*) Where an election petition abates under sub-section (*1*), the High Court shall cause the fact to be published in such manner as it may deem fit.

(*3*) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.]

116. Abatement or substitution on death of respondent.—If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, [5][the High Court] shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as [5][the High Court] may think fit.

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1. Subs. by Act 47 of 1966, s. 46, for ss. 109 and 110 (w.e.f. 14-12-1966).
2. Subs. by s. 47, *ibid.*, for "the Tribunal" (w.e.f. 14-12-1966).
3. Ins. by Act 27 of 1956, s. 61.
4. Subs. by Act 47 of 1966, s. 48, for ss. 112 to 115 (w.e.f. 14-12-1966).
5. Subs. by s. 49, *ibid.*, for "the Tribunal" (w.e.f. 14-12-1966).

[1][CHAPTER IVA.—*Appeals*

[2][**116A. Appeals to Supreme Court.**—(*1*) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the Supreme Court on any question (whether of law or fact) from every order made by a High Court under section 98 or section 99.

(*2*) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the High Court under section 98 or section 99:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

116B. Stay of operation of order of High Court.—(*1*) An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.

(*2*) Where an appeal has been preferred against an order made under section 98 or section 99, the Supreme Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.

(*3*) When the operation of an order is stayed by the High Court or, as the case may be, the Supreme Court, the order shall be deemed never to have taken effect under sub-section (*1*) of section 107; and a copy of the stay order shall immediately be sent by the High Court or, as the case may be, the Supreme Court, to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned.

116C. Procedure in appeal.—(*1*) Subject to the provisions of this Act and of the rules, if any, made thereunder, every appeal shall be heard and determined by the Supreme Court as nearly as may be in accordance with the procedure applicable to the hearing and determination of an appeal from any final order passed by a High Court in the exercise of its original civil jurisdiction; and all the provisions of the Code of Civil Procedure, 1908 (5 of 1908), and the Rules of the Court (including provisions as to the furnishing of security and the execution of any order of the Court) shall, so far as may be, apply in relation to such appeal.

(*2*) As soon as an appeal is decided, the Supreme Court shall intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and as soon as may be thereafter shall send to the Election Commission an authenticated copy of the decision; and upon its receipt, the Election Commission shall—

(*a*) forward copies thereof to the authorities to which copies of the order of the High Court were forwarded under section 160; and

(*b*) cause the decision to be published in the Gazette or Gazettes in which that order was published under the said section.]]

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1. Ins. by Act 27 of 1956, s. 62.
2. Subs. by Act 47 of 1966, s. 50, for ss. 116A and 116B (w.e.f. 14-12-1966).

CHAPTER V.—*Cost and Security for Costs*

[1][**117. Security for costs**.—(*1*) At the time of presenting an election petition, the petitioner shall deposit in the High Court in accordance with the rules of the High Court a sum of two thousand rupees as security for the costs of the petition.

(*2*) During the course of the trial of an election petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

118. Security for costs from a respondent.—No person shall be entitled to be joined as a respondent under sub-section (*4*) of section 86 unless he has given such security for costs as the High Court may direct.

119. Costs.—Costs shall be in the discretion of the High Court:

Provided that where a petition is dismissed under clause (*a*) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate.]

121. Payment of costs out of security deposits and return of such deposits.—(*1*) If in any order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part on an application made in writing in that behalf [2][within a period of one year, from the date of such order] to [3][the High Court] by the person in whose favour the costs have been awarded.

(*2*) If there is any balance left of any of the said security deposits after payment under sub-section (*1*) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of [4][one year] the whole of the said security deposits may, on an application made in that behalf in writing to [3][the High Court] by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

122. Execution of orders as to costs.—Any order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within a presidency-town, before the court of small causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (*1*) of section 121, no application shall lie under this section [5][within a period of one year from the date of such order] unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub—section.

1. Subs. by Act 47 of 1966, s. 51, for ss. 117, 118, 119, 119A and 120 (w.e.f. 14-12-1966).
2. Subs. by Act 58 of 1958, s. 34, for certain words.
3. Subs. by Act 47 of 1966, s. 52, for "the Election Commission" (w.e.f. 14-12-1966).
4. Subs. by Act 58 of 1958, s. 34, for "six months".
5. Subs. by s. 35, *ibid.*, for certain words.

PART VII

[1][CORRUPT PRACTICES AND ELECTORAL OFFENCES]

[2][CHAPTER I.—*Corrupt Practice*

123. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

[3][(*1*) "Bribery", that is to say—

(*A*) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(*a*) a person to stand or not to stand as, or [4][to withdraw or not to withdraw] from being a candidate at an election, or

(*b*) an elector to vote or refrain from voting at an election, or as a reward to—

(*i*) a person for having so stood or not stood, or for [5][having withdrawn or not having withdrawn] his candidature; or

(*ii*) an elector for having voted or refrained from voting;

(*B*) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(*a*) by a person for standing or not standing as, or for [6][withdrawing or not withdrawing] from being, a candidate; or

(*b*) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate [4][to withdraw or not to withdraw] his candidature.

Explanation.—For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

(*2*) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person [7][with the consent of the candidate or his election agent], with the free exercise of any electoral right:

1. Subs. by Act 27 of 1956, s. 65, for the heading "CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES".
2. Subs. by s. 66, *ibid*., for Chapters I and II (ss. 123 to 125).
3. Subs. by Act 58 of 1958, s. 36, for cl. (*1*).
4. Subs. by Act 47 of 1966, s. 53, for "to withdraw" (w.e.f. 14-12-1966).
5. Subs. by s. 53, *ibid*., for "having withdrawn" (w.e.f. 14-12-1966).
6. Subs. by s. 53, *ibid.*, for "withdrawing" (w.e.f. 14-12-1966).
7. Ins. by Act 58 of 1958, s. 36.

Provided that—

(*a*) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(*i*) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(*b*) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

[1][(*3*) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

[2][Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(*3A*) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

[3][(*3B*) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.—For the purposes of this clause, "sati" and "glorification" in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).]

(*4*) The publication by a candidate or his agent or by any other person [4][with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, [5]* * * of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(*5*) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person [4][with the consent of a candidate or his election agent], [6][or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (*1*) of section 29 for the poll:

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1. Subs. by Act 40 of 1961, s. 23, for cl. (*3*) (w.e.f. 20-9-1961).
2. Ins. by Act 40 of 1975, s. 8 (retrospectively).
3. Ins. by Act 3 of 1988, s. 19 (retrospectively).
4. Ins. by Act 58 of 1958, s. 36.
5. The words "or retirement from contest " omitted by s. 36, *ibid.*
6. Subs. by Act 47 of 1966, s. 53, for "for the conveyance" (w.e.f. 14-12-1966).

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(*6*) The incurring or authorizing of expenditure in contravention of section 77.

(*7*) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person [1][with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—

(*a*) gazetted officers;

(*b*) stipendiary judges and magistrates;

(*c*) members of the armed forces of the Union;

(*d*) members of the police forces;

(*e*) excise officers;

[2][(*f*) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and]

(*g*) such other class of persons in the service of the Government as may be prescribed:

[3][Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of /the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.]

[4][(*8*) booth capturing by a candidate or his agent or other person.]

1 Ins. by Act 58 of 1958, s. 36.
2 Subs. by s. 36, *ibid*., for clause (f).
3 Ins. by Act 40 of 1975, s. 8 (retrospectively).
4. Ins. by Act 1 of 1989, s. 13 (w.e.f. 15-3-1989).

Explanation.—(*1*) In this section, the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(*2*) For the purposes of clause (*7*), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent [1]* * * of that candidate.]

[2][(*3*) For the purposes of clause (*7*), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(*i*) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(*ii*) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.]

[3][(*4*) For the purposes of clause (*8*) , "booth capturing" shall have the same meaning as in section 135A.]

CHAPTER III.—*Electoral offences*

[4][**125. Promoting enmity between classes in connection with election**.—Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.]

[5][125A. Penalty for filing false affidavit, etc.—A candidate who himself or through his proposer, with intent to be elected in an election,—

(*i*) fails to furnish information relating to sub-section (*1*) of section 33A; or

(*ii*) give false information which he knows or has reason to believe to be false; or

(*iii*) conceals any information,

in his nomination paper delivered under sub-section (*1*) of section 33 or in his affidavit which is required to be delivered under sub-section (*2*) of section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.].

[6][**126. Prohibition of public meetings during period of forty—eight hours ending with hour fixed for conclusion of poll.—** (*1*) No person shall—

(*a*) convene, hold or attend, join or address any public meeting or procession in connection with an election; or

(*b*) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(*c*) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the fixed for the conclusion of the poll for any election in the polling area.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*3*) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.].

127. Disturbances at election meetings.—(*1*) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, [7][shall be punishable with imprisonment for a term which may extend to [8][six months or with fine which may extend to two thousand rupees] or with both.]

[9][(*1A*) An offence punishable under sub-section (*1*) shall be cognizable.]

1. The words "or a polling agent or a counting agent" omitted by Act 47 of 1966, s. 53 (w.e.f. 14-12-1966).
2. Added by Act 40 of 1975, s. 8 (retrospectively).
3. Ins. by Act 1 of 1989, s.13 (w.e.f. 15-3-1989).
4. Ins. by Act 40 of 1961, s. 24 (w.e.f. 20-9-1961).
5. Ins. by Act 72 of 2002, s.5 (w.e.f. 24-8-2002).
6. Subs. by Act 21 of 1996, s. 10, for s. 126 (w.e.f. 1-8-1969).
7. Subs. by Act 1 of 1989, s. 14, for certain words (w.e.f. 15-3-1989).
8. Subs. by Act 21 of 1996, s. 11, for certain words (w.e.f. 1-8-1996).
9. Ins. by s. 11, *ibid*. (w.e.f. 1-8-1996).

(*2*) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(*3*) If any police officer reasonably suspects any person of committing an offence under sub-section (*1*), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

[1][**127A. Restrictions on the printing of pamphlets, posters, etc.—**(*1*) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(*2*) No person shall print or cause to be printed any election pamphlet or poster—

(*a*) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(*b*) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(*i*) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(*ii*) in any other case, to the district magistrate of the district in which it is printed.

(*3*) For the purposes of this section,—

(*a*) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and

(*b*) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(*4*) Any person who contravenes any of the provisions of sub-section (*1*) or sub-section (*2*) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.].

128. Maintenance of Secrecy of voting.—(*1*) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy:

[2][Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council of States.].

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

1. Ins. by Act 40 of 1961, s. 26 (w.e.f. 20-9-1961).
2. Ins. by Act 40 of 2003, s. 5.

129. Officers, etc., at elections not to act for candidates or to influence voting.— (*1*) No person who is [1][a district election officer or a returning officer], or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(*2*) No such person as aforesaid, and no member of a police force, shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(*3*) Any person who contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall be punishable with imprisonment which may extend to six months or with fine or with both.

[2][(*4*) An offence punishable under sub-section (*3*) shall be cognizable.]

130. Prohibition of canvassing in or near polling station.—(*1*) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of [3][one hundred metres] of the polling station, namely:—

(*a*) canvassing for votes ; or

(*b*) soliciting the vote of any elector; or

(*c*) persuading any elector not to vote for any particular candidate; or

(*d*) persuading any elector not to vote at the election ; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall be punishable with fine which may extend to two hundred and fifty rupees.

(*3*) An offence punishable under this section shall be cognizable.

131. Penalty for disorderly conduct in or near polling stations.—(*1*) No person shall, on the date or dates on which a poll is taken at any polling station,—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker,or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(*2*) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (*1*) shall be punishable with imprisonment which may extend to three months or with fine or with both.

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1. Subs. by Act 47 of 1966, s. 55, for "a returning officer " (w.e.f. 14-12-1966).
2. Ins. by s. 55, *ibid*. (w.e.f. 14-12-1966).
3. Subs. by s. 56, *ibid*., for " one hundred yards " (w.e.f. 14-12-1966).

(*3*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(*4*) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (*1*), and may seize any apparatus used for such contravention.

132. Penalty for misconduct at the polling station.—(*1*) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised so as to prevent any elector who is otherwise entitled voting at that station.

(*3*) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(*4*) An offence punishable under sub-section (*3*) shall be cognizable.

[1][**132A. Penalty for failure to observe procedure for voting.—**If any elector to whom a ballot paper has been issued, refused to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

[2][**133. Penalty for illegal hiring or procuring of conveyance at elections**.—If any person is guilty of any such corrupt practice as is specified in clause (*5*) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

134. Breaches of official duty in connection with election.—(*1*) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

[3][(*1A*) An offence punishable under sub-section (*1*) shall be cognizable.]

(*2*) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(*3*) The persons to whom this section applies are the [4]*** [5][district election officers, returning officers], assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with [6]* * * the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act [4]***.

1. Ins. by Act 4 of 1986, s. 2 and Sch. (w.e.f.15-5-1986).
2. Subs. by Act 21 of 1996, s. 12, for s. 133 (w.e.f. 1-8-1996).
3. Ins. by Act 47 of 1966, s. 58 (w.e.f. 14-12-1966).
4. Certain words omitted by Act 58 of 1958, s. 37.
5. Subs. by Act 47 of 1966, s. 58, for "returning officers" (w.e.f. 14-12-1966).
6. The words "the preparation of an electoral roll" omitted by Act 58 of 1958, s. 37.

[1][**134A. Penalty for Government servants for acting as election agent, polling agent or counting agent.—**If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.]

[2][**134B. Prohibition of going armed to or near a polling station.**— (*1*) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighbourhood of a polling station.

(*2*) If any person contravenes the provisions of sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*3*) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

(*4*) An offence punishable under sub-section (*2*) shall be cognizable.]

135. Removal of ballot papers from polling station to be an offence.—(*1*) Any person who at any election [3][unauthorisedly] takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(*2*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (*1*), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(*3*) Any ballot paper found upon the person arrested on search shall be made over the safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(*4*) An offence punishable under sub-section (*1*) shall be cognizable.

[4][**135A. Offence of booth capturing**.—[5][(*1*)] Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which [6][shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine].

Explanation.— For the purposes of [7][this sub-section and section 20B], "booth capturing" includes, among other things, all or any of the following activities, namely:—

(*a*) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(*b*) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and [6][prevent others from free exercise of their right to vote];

(*c*) [8][coercing or intimidating or threatening directly or indirectly] any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(*d*) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(*e*) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.]

[9][(*2*) An offence punishable under sub-section (*1*) shall be cognizable.]

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1. Ins. by Act 47 of 1966, s. 59 (w.e.f. 14-12-1966).
2. Ins. by Act 21 of 1996, s. 13 (w.e.f. 1-8-1996).
3. Subs. by s. 14, *ibid.*, for "fraudulently" (w.e.f. 1-8-1996).
4. Ins. by Act 1 of 1989, s. 15 (w.e.f. 15-3-1989).
5. S. 135A renumbered as sub-section (*1*) thereof by Act 21 of 1996, s. 15 (w.e.f. 1-8-1996).
6. Subs. by s. 15, *ibid*., for certain words (w.e.f. 1-8-1996).
7. Subs. by s. 15, *ibid*., for "this section" (w.e.f. 1-8-1996).
8. Subs. by s. 15, *ibid*., for "threatening" (w.e.f. 1-8- 1996).
9. Ins. by s. 15, *ibid*. (w.e.f. 1-8-1996).

[1][**135B. Grant of paid holiday to employees on the day of poll**.— (*1*) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

(*2*) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (*1*) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(*3*) If an employer contravenes the provisions of sub-section (*1*) or sub-section (*2*), then such employer shall be punishable with fine which may extend to five hundred rupees.

(*4*) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

135C. Liquor not to be sold, given or distributed on polling day.—(*1*) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(*2*) Any person who contravenes the provisions of sub-section (*1*), shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both.

(*3*) Where a person is convicted of an offence under this section, the sprituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.]

136. Other offences and penalties therefor.—(*1*) A person shall be guilty of an electoral offence if at any election he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper; or

(*b*) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or

(*d*) without due authority supplies any ballot paper to any person [2][or receives any ballot paper from any person or is in possession of any ballot paper] ; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(*2*) Any person guilty of an electoral offence under this section shall,—

(*a*) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(*b*) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(*3*) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty " shall not include any duty imposed otherwise than by or under this Act [3]* * *.

[4][(*4*) An offence punishable under sub-section (*2*) shall be cognizable.]

137. [*Prosecution regarding certain offences.*] *Rep. by the Representation of the People (Amendment) Act*, 1966 (47 *of* 1966), *s*. 61.

138. [*Amendment of Act* 5 *of* 1898.] *Rep. by the Repealing and Amending Act,* 1957 (36 *of* 1957), *s.* 2 *and the First Schedule*.

PART VIII
DISQUALIFICATIONS

139—145. [*Chapters I to III.*] *Rep. by the Representation of the People (Amendment) Act,* 1966 (47 *of* 1966), *s.* 62.

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1. Ins. by Act 21 of 1996, s. 16 (w.e.f. 1-8-1996).
2. Ins. by Act 27 of 1956, s. 70.
3. The words and figures "or by or under the Representation of the People Act, 1950 " omitted by Act 58 of 1958, s. 38.
4. Subs. by Act 47 of 1966, s. 60, for sub-section (*4*) (w.e.f. 14-12-1966).

[1][CHAPTER IV.—*Powers of Election Commission in connection with Inquiries as to Disqualifications of Members*

146. Powers of Election Commission.—(*1*) Where in connection with the tendering of any opinion to the President under article 103 or, as the case may be, under sub-section (*4*) of section 14 of the Government of Union Territories Act, 1963 (20 of 1963), or to the Governor under article 192, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document or other material object producible as evidence;
(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or a copy thereof from any court or office ;

(*e*) issuing commissions for the examination of witnesses or documents.

(*2*) The Commission shall also have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject-matter of the inquiry.

(*3*) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898[2] (5 of 1898), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898[2] (5 of 1898).

(*4*) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

146A. Statements made by persons to the Election Commission.—No statement made by a person in the course of giving evidence before the Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(*a*) is made in reply to a question which he is required by the Commission to answer, or

(*b*) is relevant to the subject-matter of the inquiry.

146B. Procedure to be followed by the Election Commission.—The Election Commission shall have the power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private).]

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1. Ins. by Act 17 of 1965, s. 2.
2. *See* now the corresponding provision of the Code of Criminal Procedure, 1973 (2 of 1974).

146C. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the President or, as the case may be, to the Governor or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.]

PART IX

BYE-ELECTIONS

147. Casual vacancies in the Council of States.—[1][(*1*)] When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the Election Commission shall by a notification in the Gazette of India call upon the elected members of the Legislative Assembly or the members of the electoral college concerned [2]* * *, as the case may be, to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

[3][(*2*) As soon as may be after the date of commencement of the Constitution (Seventh Amendment) Act, 1956, bye-elections shall be held to fill the vacancies existing on that date in the seats allotted to the States of Assam, Orissa and Uttar Pradesh and the Union territories of Delhi, Himachal Pradesh* and Manipur*.]

148. [*Casual vacancies in the electoral colleges for certain Union territories.*] *Rep. by the Territorial Councils Act*, 1956 (103 *of* 1956), *s.* 66.

149. Casual vacancies in the House of the People.—(*1*) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the Election Commission shall, subject to the provisions of sub-section (*2*), by a notification in the Gazette of India, call upon the Parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(*2*) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (*1*) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

150. Casual vacancies in the State Legislative Assemblies.—(*1*) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Election Commission shall, subject to the provisions of sub-section (*2*), by a notification in the Official Gazette, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

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1. S. 147 re-numbered as sub-section (*1*) of that section by the Adaptation of Laws (No. 2) Order, 1956.
2. The words "or the elected members of the Coorg Legislative Council" omitted by Act 49 of 1951, s. 44 and the Fifth Schedule.
3. Ins. by the Adaptation of Laws (No. 2) Order, 1956.

* Now it has become State.

(*2*) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (*1*) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

151. Casual vacancies in the State Legislative Councils.—When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to the Legislative Council is declared void, the Election Commission shall, by a notification in the Official Gazette, call upon the Council constituency concerned or the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused, before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

[1][**151A. Time limit for filling vacancies referred to in sections 147, 149, 150 and 151**.— Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in any of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Provided that nothing contained in this section shall apply if—

(*a*) the remainder of the term of a member in relation to a vacancy is less than one year; or

(*b*) the Election Commission in consultation with the Central Government certifies that it is difficult to hold the bye-election within the said period.

PART X
MISCELLANEOUS

152. List of members of the State Legislative Assemblies and electoral colleges to be maintained by the returning officers concerned.—(*1*) The returning officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or for an election, by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, for the purposes of such election maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be, of that Legislative Assembly.

(*2*) The returning officer for an election by the members of the electoral college for a [2][Union territory] [3]* * * [4]* * * to fill a seat or seats in the Council of States shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of members of the electoral college [4]***.

(*3*) Copies of the lists referred to in sub-sections (*1*) and (*2*) shall be made available for sale.

[5][**153. Extention of time for completion of election**.—It shall be competent for the Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 30 or sub-section (*1*) of section 39.]

154. Term of office of members of the Council of States.— [6][(*1*) Subject to the provisions of sub- sections (*2*) and (*2A*), the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years.]

(*2*) [7]* * * Upon the first constitution of the Council of States the President shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

[8][(*2A*) In order that, as nearly as may be, one-third of the members may retire on the second day of April, 1958, and on the expiration of every second year thereafter, the President shall, as soon as may be after the commencement of the Constitution (Seventh Amendment) Act, 1956, after consultation with the Election Commission, make by order such provisions as he thinks fit in regard to the terms of office of the members elected under sub-section (*2*) of section 147.]

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1. Ins. by Act 21 of 1996, s. 17 (w.e.f. 1-8-1996).
2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part C State".
3. The words "or group of such States" omitted by Act 27 of 1956, s. 77.
4. Certain words omitted by Act 49 of 1951, s. 44 and the Fifth Schedule.
5. Subs. by Act 27 of 1956, s. 78, for s. 153.
6. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for sub-section (1).
7. Certain words omitted, *ibid*.
8. Ins., *ibid*.

(*3*) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

155. Commencement of the term of office of members of the Council of States.— (*1*) The term of office of a member of the Council of States whose name is required to be notified in the Official Gazette under section 71 shall begin on the date of such notification.

(*2*) The term of office of a member of the Council of States whose name is not required to be notified under section 71 shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (*a*) of clause (*1*) of article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

156. Term of office of members of State Legislative Councils.—(*1*) The term of office of a member of the Legislative Council of a State, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor [1]* * * shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(*2*) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

157. Commencement of the term of office of members of the Legislative Councils.—(*1*) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the Official Gazette under [2][section 74] shall begin on the date of such notification.

(*2*) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under [2][section 74] shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (*e*) of clause (*3*) of article 171, announcing the nomination of such person to the Council, as the case may be.

[3][**158. Return of forfeiture of candidate's deposit.**— (*1*) The deposit made under section 34 or under that section read with sub-section (*2*) of section 39 shall either be returned to the person making it or his legal representative or be forfeited to the appropriate authority in accordance with the provisions of this section.

(*2*) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(*3*) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(*4*) Subject to the provisions of sub-section (*3*), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election, one-sixth of the total number of valid votes so polled divided by the number of members to be elected:

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1. The words "or the Rajpramukh, as the case may be" omitted by the Adaptation of Laws (No. 2) Order, 1956.
2. Subs. by Act 27 of 1956, s. 79, for " section 75".
3. Subs. by Act 58 of 1958, s. 39, for s. 158.

Provided that where at an election held in, accordance with the system of proportional representation by means of the single transferable vote, a candidate is not elected, the deposit made by him shall be forfeited if he does not get more than one-sixth of the number of votes prescribed in this behalf as sufficient to secure the return of a candidate.

(*5*) Notwithstanding anything in sub-sections (*2*), (*3*) and (*4*),—

(*a*) if at a general election, the candidate is a contesting candidate in more than one parliamentary constituency or in more than one assembly constituency, not more than one of the deposits shall be returned, and the others shall be forfeited.

(*b*) if the candidate is a contesting candidate at an election in more than one council constituency or at an election in a council constituency and at an election by the members of the State Legislative Assembly to fill seats in the Legislative Council, not more than one of the deposits shall be returned, and the others shall be forfeited.]

[1][**159. Staff of certain authorities to be made available for election work.—**(*1*) The authorities specified in sub-section (*2*) shall, when so requested by a Regional Commissioner appointed under clause (*4*) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(*2*) The following shall be the authorities for the purpose of sub-section (*1*), namely:—

(*i*) every local authority;

(*ii*) every university established or incorporated by or under a Central, Provincial or State Act;

(*iii*) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(*iv*) any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.]

160. Requisitioning of premises, vehicles, etc., for election purposes.—(*1*) If it appears to the State Government that in connection with an election held within the State—

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

that Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(*2*) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(*3*) Whenever any property is requisitioned under sub-section (*1*), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

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1. Subs. by Act 12 of 1998, s. 2 (w.e.f. 23-12-1997).

(*4*) In this section,—

(*a*) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(*b*) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

161. Payment of compensation.—(*1*) Whenever in pursuance of section 160 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(*i*) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(*ii*) if any consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 160 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(*2*) Whenever in pursuance of section 160 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

162. Power to obtain information.—The State Government may with a view to requisitioning any property under section 160 or determining the compensation payable under section 161, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

163. Powers of entry into and inspection of premises, etc.— (*1*) Any person authorized in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 160 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

(*2*) In this section, the expressions "premises" and "vehicle" have the same meanings as in section 160.

164. Eviction from requisitioned premises.—(*1*) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(*2*) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

165. Release of premises from requisition.—(*1*) When any premises requisitioned under section 160 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(*2*) Where the person to whom possession of any premises requisitioned under section 160 is to be given under sub-section (*1*) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(*3*) When a notice referred to in sub-section (*2*) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

166. Delegation of functions of the State Government with regard to requisitioning.—The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 160 to 165 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

167. Penalty for contravention of any order regarding requisitioning.— If any person contravenes any order made under section 160 or section 162, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

168. [*Special provisions with respect to Rulers of former Indian States*.] *Rep. by the Rulers of Indian States (Abolition of Privileges) Act*, 1972 (54 *of* 1972), *s.* 4 (*w.e.f.* 9-9-1972).

PART XI
GENERAL

169. Power to make rules.—(*1*) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules[1] for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

[2][(*a*) the form of affidavit under sub-section (*2*) of section 33A;]
[3][(*aa*)] the duties of presiding officers and polling officers at polling stations;
[4][(*aaa*) the form of contribution report;]

1. *See* the Conduct of Election Rules, 1961, in Vol. II.
2. Ins. by Act 72 of 2002, s. 6 (w.e.f. 24-8-2002).
3. Renumbered by s. 6, *ibid.* (w.e.f. 24-8-2002).
4. Ins. by Act 46 of 2003, s. 6.

(*b*) the checking of voters by reference to the electoral roll;

[1][(*bb*) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;];

(*c*) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability ;

(*d*) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote;

(*e*) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;

[2][(*ee*) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at poling stations where such machines are used;]

(*f*) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

(*g*) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;

[2][(*gg*) the procedure as to counting of votes recorded by means of voting machines;]

(*h*) the safe custody of [3][ballot boxes, voting machines], ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

[1][(*hh*) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State;]

(*i*) any other matter required to be prescribed by this Act.

[4][(*3*) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [5][in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made,] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.].

170. Jurisdiction of civil courts barred.— No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

171. [*Repeal of Act* 39 *of* 1920.] *Rep. by the Repealing and Amending Act,* 1957 (36 *of* 1957), *s.* 2 *and Sch. I.*

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1. Ins. by Act 46 of 2003, s. 6.
2. Ins. by Act 1 of 1989, s. 16 (w.e.f. 15-3-1989).
3. Subs. by s. 16, *ibid*., for "ballot boxes" (w.e.f. 15-3-1989).
4. Subs. by Act 40 of 1961, s. 29, for sub-section (*3*) (w.e.f. 20-9-1961), which was ins. by Act 27 of 1956, s. 82.
5. Subs. by Act 4 of 1986, s. 2 and Sch. (w.e.f. 15-5-1986).

राज्य पुनर्गठन अधिनियम, 1956

(1956 का अधिनियम संख्यांक 37) से उद्धरण

* * * *

विधान परिषदें

33. मध्य प्रदेश विधान परिषद्--(1) ऐसी तारीख से जैसी राष्ट्रपति आदेश द्वारा नियत करे, मध्य प्रदेश के नए राज्य के लिए एक विधान परिषद् होगी ।

(2) उक्त परिषद में [1][90] स्थान होंगे जिनमें से--

(क) अनुच्छेद 171 के खंड (3) के उपखंड (क), (ख) और (ग) में निर्दिष्ट निर्वाचन मण्डलों द्वारा निर्वाचित व्यक्तियों द्वारा भरे जाने वाले स्थानों की संख्याएं क्रमशः [2][31, 8 और 8] होंगी;

(ख) उक्त खंड के उपखंड (घ) के उपबंधों के अनुसार विधान सभा के सदस्यों द्वारा निर्वाचित व्यक्तियों द्वारा भरे जाने वाले स्थानों की संख्या [3][31] होगी; तथा

(ग) उस खंड के उपखंड (ङ) के उपबंधों के अनुसार राज्यपाल द्वारा नामनिर्दिष्ट व्यक्तियों द्वारा भरे जाने वाले स्थानों की संख्या 12 होगी ।

(3) [4][विधान परिषद् अधिनियम, 1957 (1957 का 37) के प्रारम्भ के पश्चात् यथाशक्य शीघ्र राष्ट्रपति, निर्वाचन आयोग से परामर्श करने के पश्चात्, आदेश द्वारा--

(क) वे निर्वाचन-क्षेत्र, जिनमें अनुच्छेद 171 के खंड (3) के उपखंड (क), (ख) और (ग) में से हर एक के अधीन परिषद् के निर्वाचनों के प्रयोजन के लिए उक्त नया राज्य विभाजित किया जाएगा;

(ख) हर एक निर्वाचन-क्षेत्र का विस्तार ; तथा

(ग) हर एक निर्वाचन-क्षेत्र को आबंटित स्थानों की संख्या,

अवधारित करेगा ।

(4) [5][ऐसे प्रारंभ] के पश्चात् यथाशक्य शीघ्र इस धारा के उपबंधों और लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) और लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) के उपबंधों के अनुसार उक्त परिषद् गठित करने के लिए कदम उठाए जाएंगे ।

[6]* * * *

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[1] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा "72" के स्थान पर प्रतिस्थापित ।
[2] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा "24, 6 और 6" के स्थान पर प्रतिस्थापित ।
[3] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा "24" के स्थान पर प्रतिस्थापित ।
[4] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा "इस अधिनियम" के स्थान पर प्रतिस्थापित ।
[5] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा "नियत दिन" के स्थान पर प्रतिस्थापित ।
[6] 1957 के अधिनियम सं0 37 की धारा 6 द्वारा परन्तुक का लोप किया गया ।

*   *   *   *   *

The Legislative Councils

33. Madhya Pradesh Legislative Council.—(*1*) As from such date as the President may by order appoint, there shall be a Legislative Council for the new State of Madhya Pradesh.

(*2*) In the said Council there shall be [1][90] seats of which—

(*a*) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (*a*), (*b*) and (*c*) of clause (*3*) of article 171 shall be [2][31, 8 and 8] respectively;

(*b*) the number to be filled by persons elected by the members of the Legislative Assembly in accordance with the provisions of sub-clause (*d*) of the said clause shall be [3][31]; and

(*c*) the number to be filled by persons nominated by the Governor in accordance with the provisions of sub-clause (*e*) of that clause shall be 12.

(*3*) As soon as may be after the commencement of [4][the Legislative Councils Act, 1957 (37 of 1957)], the President, after consultation with the Election Commission, shall by order determine—

(*a*) the constituencies into which the said new State shall be divided for the purpose of elections to the Council under each of the sub-clauses (*a*), (*b*) and (*c*) of clause (3) of article 171;

(*b*) the extent of each constituency; and

(*c*) the number of seats allotted to each constituency.

(*4*) As soon as may be after [5][such commencement,] steps shall be taken to constitute the said Council in accordance with the provisions of this section and the provisions of the Representation of the People Act, 1950 (43 of 1950), and the Representation of the People Act, 1951 (43 of 1951).

[6]*   *   *   *   *

*   *   *   *   *

1. Subs. by Act 37 of 1957, s. 6, for "72".
2. Subs. by s. 6, *ibid*., for "24, 6 and 6".
3. Subs. by s. 6, *ibid*., for "24".
4. Subs. by s. 6, *ibid*., for "this Act".

5. Subs. by s. 6, *ibid*., for "the appointed day".
6. Proviso omitted by s. 6, *ibid*.

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[1][(*6*) Notwithstanding anything in sub-section (*4*), the reservation of seats for the Scheduled Castes in the Legislative Assembly of the Union territory shall cease to have effect on the same date on which the reservation of seats for the Scheduled Castes in the House of the People shall cease to have effect under article 334:

Provided that nothing in this sub-section shall affect any representation in the Legislative Assembly of the Union territory until the dissolution of the then existing Assembly.]

4. Qualification for membership of Legislative Assembly.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of [2][the Union territory] unless he—

(*a*) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the First Schedule;

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

(*c*) possesses such other qualifications as may be prescribed in that behalf by or under any law.

5. Duration of Legislative Assemblies.—The Legislative Assembly of [2][the Union territory] unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

* * * * *

13. Vacation of seats.—(*1*) No person shall be a member both of Parliament and of the Legislative Assembly of [2][the Union territory] and if a person is chosen a member both of Parliament and of such Assembly, then, at the expiration of such period as may be specified in the rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislative Assembly of the Union territory.

(*2*) If a member of the Legislative Assembly of [2][the Union territory] —

(*a*) becomes subject to any disqualification mentioned in [3][section 14 or section 14A] for membership of the Assembly, or

(*b*) resigns his seat by writing under his hand addressed to the Speaker,

his seat shall thereupon become vacant.

(*3*) If for a period of sixty days a member of the Legislative Assembly of [2][the Union territory] is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

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

14. Disqualifications for membership.—(*1*) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly of [2][the Union territory]—

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1. Subs. by Act 18 of 1987, s. 65, for sub-section (*6*) (w.e.f. 30-5-1987).
2. Subs. by s. 65, *ibid*., for "a Union territory" (w.e.f. 30-5-1987).
3. Subs. by Act 24 of 1985, s. 2, for "section 14".

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(*a*) if he holds any office of profit under the Government of India or the Government of any State or the Government of [1][the Union territory], other than an office declared by law made by Parliament or by the Legislative Assembly of the Union territory], not to disqualify its holder; or

(*b*) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (*b*), sub-clause (*c*) or sub-clause (*d*) of clause (*1*) of article 102 or of any law made in pursuance of that article.

(*2*) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of [1][the Union territory] by reason only that he is a Minister either for the Union or for such State or Union territory.

(*3*) If any question arises as to whether a member of the Legislative Assembly of [2][the Union territory] has become disqualified for being such a member under the provisions of sub-section (*1*), the question shall be referred for the decision of the President and his decision shall be final.

(*4*) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

[3][**14A**. **Disqualification on ground of defection for being a member.—**The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly of [2][the Union territory], section 11, section 16 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of [2][the Union territory] as they apply to and in relation to the members of the Legislative Assembly of a State, and accordingly, —

(*a*) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(*b*) a person shall be disqualified for being a member of the Legislative Assembly of [2][the Union territory] if he is so disqualified under the Tenth Schedule as so modified.]

*   *   *   *   *

39. Assembly constituencies.—For the purpose of elections to the Legislative Assembly of [2][the Union territory], the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of this Part in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

40. Representation of Pondicherry in the House of the People.—There shall be allotted one seat to the Union territory of Pondicherry in the House of the People and that union territory shall form one parliamentary constituency.

*   *   *   *   *

51. Provision in case of failure of constitutional machinery.—If the President, on receipt of a report from the Administrator of [2][the Union territory] or otherwise, is satisfied,--

(*a*) that a situation has arisen in which the administration of the Union territory cannot be carried on in accordance with the provisions of this Act, or

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1. Subs. by Act 18 of 1987, s. 65, for "any Union territory" (w.e.f. 30-5-1987).
2. Subs. by s. 65, *ibid*., for "a Union territory" (w.e.f. 30-5-1987).
3. Ins. by Act 24 of 1985, s. 3.

(*b*) that for the proper administration of the Union territory it is necessary or expedient so to do,

the President may, by order, suspend the operation of all or any of the provisions of this Act for such period as he thinks fit and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the Union territory in accordance with the provisions of article 239.

[1][**52. Authorisation of expenditure by President.—**Where the Legislative Assembly of [2][the Union territory] is dissolved, or its functioning as such Assembly remains suspended, on account of an order under section 51, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of that Union territory pending the sanction of such expenditure by Parliament.]

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1. Ins. by Act 1 of 1980, s. 2 (w.e.f. 25-9-1979).
2. Subs. by Act 18 of 1987, s. 65, for "a Union territory" (w.e.f. 30-5-1987).