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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO.....OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF :

PEOPLE'S UNION FOR CIVIL LIBERTIES & ORS

..PETITIONER

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

PAPER BOOK
(KINDLY SEE INSIDE FOR INDEX)

MR, ABHIMANUE SHRESTHA
ADVOCATE FOR THE PETITIONER

Dated: 03.10.2019

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SYNOPSIS

This Writ Petition under Article 32 of the Constitution of India has been filed by People's Union for Civil Liberties (PUCL), which has taken up several causes earlier for protection of human rights, civil liberties as well as the Fundamental Rights of the people. They are: Telephone tapping case (1997) 1 SCC 301, Fake police encounter in Manipur (1997) 3 SCC 463; Disclosure of criminal background and assets by candidates, (2003) 9 SCC 490; Challenge to POTA (2004) 9 SCC 980; Encounter killings in Maharashtra, (2014) 10 SCC 635, among others.

The present Writ Petition impugns Presidential Order G.S.R. 551(E) (C.O. 272) dated 05.08.2019, Presidential Order G.S.R. 562(E) (C.O. 273) 05.08.2019, as well as the Jammu and Kashmir (Reorganisation) Act of 2019 as unconstitutional and void, and violative of the principle of federalism and the Basic Structure of the Constitution. The grounds for challenge are not reiterated here for the sake of brevity.

As regards Article 370 of the Constitution, the interpretation of which is in question, the Petitioners submit as follows:

- I. The marginal note to Article 370 says that it was a temporary provision with respect to State of Jammu & Kashmir and the provision begins with a non-obstante clause, namely, "Notwithstanding anything in this Constitution", meaning thereby the constitutional provisions would apply to the extent permitted under Article 370.
- II. Article 370(1)(b) limits powers of the Parliament to make laws in respect of the State of Jammu & Kashmir.

According to 370(1)(b)(i), the President "in consultation" with the "Government of the State" can declare those matters in the Union list and concurrent list which correspond with the matters specified in the Instrument of Accession, meaning thereby that the matters which fall within the Instrument of Accession are relatable to items in the Union list and concurrent list will apply to State of Jammu & Kashmir.

III. As far as other matters in the said list i.e. Union list and concurrent list are concerned, as per Article 370(1)(b)(ii), the President may by order, with the concurrence of the Government of the State, can apply those Lists to the State of Jammu & Kashmir.

IV. The meaning of the term 'Government of the State' has been provided in the Explanation, namely, the person for the time being recognized as the Maharaja of Jammu & Kashmir acting on the advice of Council of Ministers as per Maharaja's Proclamation dated 5th March 1948.

V. It is clear from the above that the President either in consultation with the Maharaja of Jammu & Kashmir or with the concurrence of Maharaja of Jammu & Kashmir could apply the items from the Union list as well as the Concurrent list to the State of J&K. However, as far as the items given in IoA are concerned, they were to apply to the State of Jammu & Kashmir in consultation with the Maharaja.

VI. Art. 370(1)(c) makes Article 1 and Article 370 of the Constitution of India directly applicable to the State of Jammu & Kashmir.

VII. Art. 370(1)(d) is important because most of the subsequent declarations by the President have been issued by using the said provision. According to Article 370(1)(d), the President may apply other provisions of the Constitution to the State of J&K with such exceptions and modifications as the President may by order specify. There are two provisos attached to 370(1)(d). According to the

first proviso, in relation to the matters specified in the Instrument of Accession, the President shall not issue an order except "in consultation with the Government of the State". According to the second proviso, which relates to 370(1)(b)(ii) in issuing an order, the President shall require "concurrence of the Government". The intention of 370(1)(d) is clear, namely, that if the President wishes to make any change in the Constitution in relation to matters concerning the Instrument of Accession, he could do that only with consultation with the Maharaja, and if the President wanted to make changes in the Constitution in relation to other items (other than the instrument of accession), he could have done so with the concurrence of the Maharaja.

VIII. The above power, which were given to the President/Government of the State (Maharaja at that time), was further subject to Article 370(2). It is important that 370(2) uses the term 'concurrence of the government of the State' referable to Article 370(1)(b)(ii) and second proviso to sub-clause (d) of Article 370(1). These provisions relate to items other than the Instrument of Accession, for which concurrence as against the consultation is mentioned. It further says that if the President is issuing a declaration seeking concurrence of the Government of the State and before the Constituent Assembly for framing the Constitution of the State i.e. J&K was convened, the said matter shall be placed before the Constituent Assembly and the Constituent Assembly shall take a decision on the issue. It means that as far as the Instrument of Accession is concerned, the same cannot be changed but if any other issue provided in the Constitution (i.e. Union list/concurrent list or any matter related to the Constitution) for which concurrence is sought, the decision of the Constituent Assembly shall be final.

IX. Article 370(3) starts with a non-obstante clause. Art. 370(1) also starts with a non-obstante clause. The meaning

of these two clauses will be that the provisions of this Article are notwithstanding the Constitution, which shall mean that the power given under Article 370(3) relates to what is provided in Article 370 and not relatable to other parts of the Constitution and that for Art. 370, power has been given to the President who may by public notification order that 370 shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify. This power given to the President, however, is again subject to the proviso, which says that before President issues such a notification, recommendation of the constituent assembly shall be necessary. It is therefore, clear that for exercising the powers under 370(3), recommendation of the Constituent Assembly was necessary.

The above construction put on Article 370 of the Constitution is in consonance with the Constitution Bench judgment of this Hon'ble Court in *Prem Nath Kaul v. State of J&K*, AIR 1959 SC 749, where this Hon'ble Court held as follows:

"34. Having provided for the legislative power of Parliament and for the application of the articles of the Constitution of the State, Article 370 clause (2) prescribes that if the concurrence of the Government of the State required by the relevant sub-clauses of clause (1) has been given before the Constituent Assembly of Kashmir has been convened, such concurrence shall be placed before such Assembly for such decision as it may take thereon. This clause show that the Constitution-makers attached great importance to the final decision of the Constituent Assembly, and the continuance of the exercise of powers conferred on Parliament and the President by the relevant temporary provisions of Article 370(1) is made

conditional on the final approval by the said Constituent Assembly in the said matters.

35. Clause (3) authorises the President to declare by public notification that this article shall cease to be operative or shall be operative only with specified exceptions or modifications; but this power can be exercised by the President only if the Constituent Assembly of the State makes recommendation in that behalf. Thus the proviso to clause (3) also emphasises the importance which was attached to the final decision of the Constituent Assembly of Kashmir in regard to the relevant matters covered by Article 370.

[...]

38. On the said construction the question which falls to be determined is: Do the provisions of Article 370(1) affect the plenary powers of the Maharaja in the matter of the governance of the State? The effect of the application of the present article has to be judged in the light of its object and its terms considered in the context of the special features of the constitutional relationship between the State and India. The Constitution-makers were obviously anxious that the said relationship should be finally determined by the Constituent Assembly of the State itself; that is the main basis for, and purport of, the temporary provisions made by the present article; and so the effect of its provisions must be confined to its subject-matter. [...] (Emphasis supplied)

The above interpretation is also in accordance with what Sh. Gopal swami Ayyangar stated before the Constituent Assembly of India :

“Then we come to clause (2). You will remember that several of these clauses provide for the concurrence of the Government of Jammu and Kashmir State. Now, these relate particularly to matters which are not mentioned in the Instrument of Accession, and it is one of our commitments to the people and Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which

may be called in the State for the purpose of framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the State.”(Emphasis supplied)

Sh. Gopala swami Ayyangaral so explained that Article 370 cannot be invoked after the State's Constituent Assembly has “taken its decision” on the Constitution and “on the range of federal jurisdiction over the State”. He stated as follows:

“..the provision is made that when the Constituent Assembly of the State has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the state, the President may, on the recommendation of that Constituent Assembly, issue an order that this Article 306A (370) shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issued any order of that kind, the recommendation of the Constituent Assembly will be a condition precedent.”

From the above, it is clear that Article 370 has fulfilled its purpose and only remains a historical link to show how the Constitution of Jammu & Kashmir came about.

It is thus clear from the above history of the manner of integration of Jammu and Kashmir into India that Article 370 was transitory in the sense that the right to decide permanently on the relation between India and Jammu and Kashmir was to be finally decided by the Constituent Assembly of Kashmir through the Constitution of Jammu and Kashmir. Without the sanction of the Constituent Assembly, no further changes could be made. The Constituent Assembly dissolved in 1957 and therefore, there is no question of

making any further changes to the relation between India and Kashmir by any other authority. Article 370 is a solemn promise by the Constitution to the people of Jammu & Kashmir State. The relation between India and Kashmir as laid down in the Constitution of Kashmir is part of the Basic Structure of the Indian Constitution and cannot be changed except with the approval of the Constituent Assembly of Kashmir. The relationship between India and Kashmir are frozen in time in 1957 and no changes can be made to that. Thus, the present changes, which are sought to be brought in, are bad *ab initio* and cannot be allowed to operate. The sole ratification authority to the extension of the Centre's powers over the State on the extension of additional provisions of the Constitution of India has gone.

The subsequent decisions in *Sampat Prakash v State of J&K*, AIR 1970 SC 1118 and *Mohammed Maqbool Damnoo v State of J&K*, (1972) 2 SCC 735 do not refer to the binding judgment of a coordinate bench in .. and are therefore, per incuriam, meaning otherwise the construction put by these two Benches on Article 370 is not correct.

In view of the above, the impugned Presidential Orders are unconstitutional and void *ab initio*. The Jammu and Kashmir (Reorganization) Act, 2019 is also constitutionally invalid and *ultra vires* Article 3 of the Constitution. It also violates the principle of federalism, which is recognized as a basic feature of the Indian Constitution, apart from violating Fundamental Rights of the Constitution.

Hence, this Writ Petition.

LIST OF DATES

07.09.1939	<p>The Maharaja Bahadur of the Princely State of Jammu & Kashmir had promulgated the J&K (Constitution) Act on September 7, 1939. The said Act consisted of 78 Sections and 5 schedules. This was promulgated by the Maharaja himself and not framed by any Constituent Assembly elected by the people. The Act contained provisions with regard to the executive, legislature, as well as the judiciary (the High Court).</p>
29- 30.09.1944	<p>There was an Annual Session of National Conference on the 29th-30th September 1944 at Sopre in Kashmir to approve a manifesto (New Kashmir). The said manifesto was unanimously approved. Among other things, the Manifesto dealing with citizenship required that the people of J&K State should be guaranteed (i) freedom of speech ; (ii) freedom of press; (iii) freedom of assembly and meetings; (iv) freedom of street processions and demonstrations; (v) freedom of conscience and worship; (vi) right against arrest or detention except by decision of a Court of law; (vii) the right to work i.e. right to receive guaranteed work and the right to rest; (viii) a right to receive education and scholarships were to be given to the deserving poor students; (ix) equal rights for women citizens in all fields of national life and the law should give special protection to the interests of mother and</p>

	<p>child.</p> <p>The said manifesto was submitted to the Maharaja for consideration, by making it clear that said manifesto would alone be acceptable to the people of the State.</p>
1946	<p>According to the Cabinet Mission Plan of 1946, all Princely States following Partition, including Kashmir, had three alternatives: to assert complete independence, to accede to Pakistan or to accede to India.</p>
18.07.1947	<p>The Indian Independence Act was passed dividing British India into two independent dominions i.e. India and Pakistan.</p>
25.07.1947	<p>Lord Mountbatten addressed the Chamber of Princes and advised them that they had become independent, to accede to one or other of the Dominions before the transfer of power, keeping in mind the geographical contiguity of their states. Lord Mountbatten also circulated a Draft Instrument of Accession for discussion, which provided for surrender to the appropriate dominion the power over three subjects - namely, communication, defence and external affairs.</p>
15.08.1947	<p>The Indian Independence Act was adapted as the Interim Constitution, under Section 8(2) of the Act, by the India Order (Provisional Constitution), 1947 and served as the Constitution of India for the period 15th August, 1947 to 25th January, 1950. In the Indian Dominion, accession was to be made under Sec.6 of the</p>

	Government of India Act, 1935 as adapted by Sec. 9 of the Indian Independence Act, 1947.
August 1947	Kashmir did not accede to either dominion by 15 th August 1947. The people of the State demanded establishment of a responsible government which had put the then Maharaja Hari Singh in a "tight corner". He was indecisive and offered to sign a Standstill agreement with both India and Pakistan which aimed at continuing the existing relationship pending final decision regarding the future of the State. Maharaja Hari Singh signed a standstill agreement with Pakistan and was negotiating a similar agreement with India.
20.10.1947	The tribal invasion took place on 20.10.1947 where a large number of tribesmen from the territory of Pakistan, armed with brand guns, machine guns, mortars and flame throwers attacked the frontiers of the State.
26.10.1947	<p>The Maharaja thought of accession to save his State and therefore, wrote a letter enclosing the Instrument of Accession duly signed by Maharaja Hari Singh. The following statement in the letter is relevant:</p> <p><i>"With the conditions obtaining at present in my State and the great emergency of the situation as it exists I have no option but to ask for help from the Indian opinion. Naturally, they cannot send the help asked for without my State acceding to India. I have accordingly decided to do so and I attach the instrument of accession for acceptance by your</i></p>

	<p>government"</p> <p>Attached to the said letter was the Instrument of Accession duly signed by Maharaja Hari Singh. The operative part of the same reads as follows:</p> <p><i>"Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modifications as the Governor-General may by order specify be applicable to the Dominion of India;</i></p> <p><i>And whereas the Government of India Act, 1935, as adopted by the Governor-General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof;</i></p> <p><i>Now, therefore I Shri manIndar Mahander Rajrajeshwar Maharajadhiraj Shri Hari Singh Ji Jammu Kashmir Naresh Tatha Tibet adi Deshадhipathi Ruler of Jammu and Kashmir State in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession."</i></p>
27.10.1947	<p>Lord Mountbatten, Governor General of India indicated his acceptance of the Instrument of Accession in the following words:</p> <p><i>I do hereby accept this instrument of accession</i></p> <p><i>Dt. 27th Day of October, 1947.</i></p>
05.03.1948	The Maharaja of Kashmir appointed an interim

	<p>government making Sheikh Mohammed Abdullah as the Prime Minister and appointing a Council of Ministers. It was further mentioned that the Council of Ministers shall take appropriate steps as soon as normal conditions were restored, to convene a National Assembly based on adult suffrage for framing the Constitution.</p>
17.10.1949	<p>The Constituent Assembly of India adopted Article 306A which later became Article 370 in the final Constitution of India. Thus, a special provision for constitutional relationship of the State with the Union came into existence. Sh. Gopalswami Ayyangar, who introduced this motion, stated that relationship of all States to Government of India, till India became a republic, was based on the Instrument of Accession. He however, clarified that as regards other States, instrument of accession will be a thing of the past once India becomes a republic but it would not be so in the case of Kashmir due to the special conditions prevailing in Kashmir.</p> <p>The provisions introduced were explained as follows:</p> <p><i>"Then we come to clause (2). You will remember that several of these clauses provide for the concurrence of the Government of Jammu and Kashmir State. Now, these relate particularly to matters which are not mentioned in the Instrument of Accession, and <u>it is one of our commitments to the people and Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which may be called in the State for the purpose of</u></i></p>

	<p><u>framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the State.</u></p> <p>[.....]</p> <p>“..the provision is made that when the Constituent Assembly of the State has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the state, the President may, on the recommendation of that Constituent Assembly, issue an order that this Article 306A (370) shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issued any order of that kind, <u>the recommendation of the Constituent Assembly will be a condition precedent.</u>”</p> <p>(Emphasis supplied)</p>
25.11.1949	<p>Yuvraj Karan Singh, in whose favour the Ruler had abdicated the powers, made a proclamation on 25.11.1949 acting on the advice of Council of Ministers, to the following effect:</p> <p>“Whereas with the inauguration of the new Constitution for the whole of India now being framed by the Constituent Assembly of India, the Government of India Act, 1935, which now governs the constitutional relationship between this State and the Dominion of India will stand repealed:</p> <p>.....</p> <p>I now hereby declare and direct that the Constitution of India shortly to be adopted by the Constituent Assembly of India shall, insofar as it is applicable to the State of Jammu and Kashmir, govern the constitutional relationship between this State and shall be enforced in this State by me my heirs and successors in accordance with the tenor of its provisions;</p> <p>That the provisions of the said Constitution shall, as from the date of its commencement; supersede and</p>

	<i>abrogate all other Constitutional provisions inconsistent therewith which are at present in force in this State."</i>
26.01.1950	<p>The Constitution of India, including Article 370, came into force on 26.01.1950.</p> <p>Article 370 reads as follows:</p> <p><i>"370. Temporary provisions with respect to the State of Jammu and Kashmir</i></p> <p><i>(1) Notwithstanding anything in this Constitution,</i></p> <p><i>(a) the provisions of Article 238 shall not apply in relation to the State of Jammu and Kashmir;</i></p> <p><i>(b) the power of Parliament to make laws for the said State shall be limited to</i></p> <p><i>(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and</i></p> <p><i>(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify</i></p> <p><i>Explanation For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharajas Proclamation dated the fifth day of March, 1948 ;</i></p> <p><i>(c) the provisions of Article 1 and of this article shall apply in relation to that State;</i></p> <p><i>(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may</i></p>

	<p><i>by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub clause (b) shall be issued except in consultation with the Government of the State: Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government</i></p> <p><i>(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub clause (b) of clause (1) or in the second proviso to sub clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon</i></p> <p><i>(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification"</i></p>
26.01.1950	<p>After the Indian Constitution came into force, in exercise of powers conferred by Article 370(1)(ii), the President of India issued the Constitution (Application to Jammu & Kashmir) Order, 1950 in consultation with the government of Jammu & Kashmir. In the said Presidential Order, the subjects already mentioned in the instrument of accession were elaborated as well as</p>

	<p>certain additions were also made. Two Schedules were also added.</p> <ol style="list-style-type: none"> i. The First Schedule related to the jurisdiction of the Union Parliament over the State and enumerated the appropriate items in the Union List of the Seventh Schedule to the Constitution. ii. In the Second Schedule, provisions of the Constitution, which in addition to Art.1 and Art 370, were to apply to Kashmir, were given. The said Presidential order extended the powers of Union Parliament beyond what was given in the Instrument of Accession. The understanding was that constitutional relationship of the State for J&K immediately after application of Constitution of India was to be governed by order of 1950.
27.10.1950	<p>The General Council of the All India Jammu & Kashmir National Conference passed a resolution on 27.10.1950 asking for a convening of a Constituent Assembly for the State. The following part of the Resolution is significant:</p> <p><i>"The General Council recommends to the Supreme National Executive of the people to take immediate steps for convening a Constituent Assembly passed by the adult suffrage and then embracing all sections of the people and all the Constituents of the State for the purposes of determining the future shape and affiliation of the State of Jammu and</i></p>

	<i>Kashmir. In this sovereign assembly embodying the supreme will of the people of the State, we shall give ourselves and our children a Constitution worthy of the traditions of our freedom struggle and in accordance with the principles of New Kashmir."</i>
31.10.1951	On the first meeting of the Assembly, the decision was taken to frame a Constitution for the further governance of the country. Further, within a month of the formation of the constituent assembly of Jammu and Kashmir, a 17 member "Basic Principles Committee" was constituted on 5th November 1951. G. M. Bakshi, Mirza Afzal Beg, D. P. Dhar and Mir Qasim were members of this committee and this committee set out the basic draft of the Constitution of Jammu and Kashmir.
21.08.1952	The Delhi Agreement, 1952 took place between the representatives of Kashmir Government and the representatives of Indian Government vis-à-vis several important decisions taken by the Constituent Assembly. The arrangements made in the Delhi Agreement were finally adopted on August 21, 1952.
20.10.1953	Two Committees of the Constituent Assembly of Jammu & Kashmir were set up i.e. Advisory Committee on Fundamental Rights and Citizenship and Basic Principles Committee.
06.02.1954	The Constituent Assembly on 06.02.1954 adopted the reports of the Basic Principles Committee and Fundamental Rights and citizenship.
15.02.1954	Another report of Drafting Committee was presented on

	<p>Feb 12th 1954, which was adopted on Feb 15th 1954. This adoption embodied the ratification of the State's accession to India.</p>
14.05.1954	<p>The President of India, in exercise of powers under Art 370, issued an order endorsing the relationship of Kashmir with India as mentioned in the Delhi Agreement. This order superseded the Constitution (Application to Jammu & Kashmir) Order, 1950. Though by this order, the powers of Union Parliament were enlarged in relation to the Kashmir, the internal autonomy of the State was not compromised. This order also recognized the unique position of Kashmir in the Union. For internal administration of the State after its accession to India, an interim Constitution was drawn up to take care of the changed situation in Kashmir. There were several amendments made in the Constitution Act, 1939 and the said Act served as the interim Constitution of Jammu & Kashmir pending the enactment of a fully democratic Constitution by the State Constituent Assembly. The Presidential Order provided, among others, that:</p> <p>(i) The State was guaranteed territorial integrity. No change in the name or boundary of the State could be brought about without the consent of the State Legislature. This was a proviso to Article 3 of the Indian Constitution.</p>

	<p>(ii) It introduced Article 35A which provides that the State could define its permanent residents and confer on them special rights and privileges with regard to employment under the State Government, acquisition of immovable property in the State, settlement in the State, and so forth.</p> <p>(iii) Proviso to Article 7 stated that the State's permanent residents, having migrated to Pakistan, returning to the State either under a permit for resettlement or under a law for permanent return, shall be deemed to be a citizen of India.</p> <p>This 1954 order also reiterated that no amendment under Article 368 of the Constitution would apply to Jammu and Kashmir except those made under Article 370(1). This 1954 order was passed with the concurrence of the Constituent Assembly of Jammu and Kashmir and superseded the aforesaid 1950 order.</p>
17.11.1956	The Constitution of Jammu & Kashmir was adopted.
26.01.1957	<p>The Constitution of Jammu & Kashmir came into force.</p> <p>The Constitution of Jammu & Kashmir, 1957 says in the Preamble that the Constitution further defines the existing relationship of the State with the Union of India "as an integral part thereof". Section 3 of the Jammu & Kashmir Constitution specifically mentions that the State of Jammu & Kashmir is and shall be an integral part of the Union of India. As per Section 4, the territory</p>

	of the State shall comprise all the territories which, on the 15 th August, 1947, were under the sovereignty and suzerainty of the Ruler of the State. Though the Constitution of J&K specifically recognizes that J & K is and shall be an integral part of Union of India, the same Constitution preserves and protects the special features and the rights of the people of J&K.
26.01.1957	The Constituent Assembly was thereafter dissolved on 26.01.1957 after the first legislative assembly elections took place in State of Jammu and Kashmir. The Constituent Assembly of Jammu and Kashmir, however, resolved to dissolve itself. The President, G.M. Sadiq declared: <i>"today this historic session ends and with this the Constituent Assembly is dissolved according to the resolution passed on 17.11.1956."</i>
20.06.2018	The Governor of Jammu & Kashmir issued a proclamation on 20.6.2018 under Section 92 of the Constitution of Jammu and Kashmir with the concurrence of the President of India, thereby assuming to himself the functions of the Government and Legislature of the State.
21.11.2018	The State Assembly, initially kept in suspended animation, was eventually dissolved by the governor on 21.11.2018.
19.12.2018	The President of India issued a Proclamation under Article 356 of the Indian Constitution on 19 th December

	<p>2018, imposing President's Rule in Jammu and Kashmir. It is pertinent to note that vide the said Notification, the operation of the second proviso to Article 3 of the Constitution pertaining to Jammu and Kashmir was suspended. The extract of the second proviso to Article 3 reads as follows –</p> <p><i>“Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State.”</i></p>
03.01.2019	The President's Rule in Jammu and Kashmir was extended for a further period of six months under article 356(4) of the Constitution of India.
03.07.2019	The President's Rule was extended for another six months.
05.08.2019	<p>The impugned Presidential Order, G.S.R.551(E) = C.O. 272 - The Constitution (Application to Jammu and Kashmir) Order, 2019 was passed by the President of India allegedly in exercise of the powers conferred by clause (1) of article 370 of the Constitution. This order supersedes the Constitution (Application to Jammu and Kashmir) Order, 1954 by which special status had been given to Jammu and Kashmir. It also therefore does away with Article 35A and 35(3). It further states <i>“(b) references to the person for the time being recognized by</i></p>

	<p><i>the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir; (c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers". It further seeks to amend Article 367 of the Constitution of India so as to read Constituent Assembly in Article 370 as State Legislative Assembly.</i></p>
05.08.2019	<p>The Rajya Sabha passed the Jammu and Kashmir (Reorganisation) Bill, 2019 (impugned herein) unanimously. The Bill provided for reorganisation of the State of Jammu and Kashmir. It reorganised the state of Jammu and Kashmir into: (i) the Union Territory of Jammu and Kashmir with a legislature, and (ii) the Union Territory of Ladakh without a legislature. The Union Territory of Jammu and Kashmir will be administered by the President through an Administrator appointed by him known as the Lieutenant Governor. The Union Territory of Ladakh will be administered by the President, through a Lieutenant Governor appointed by him.</p>
06.08.2019	<p>The impugned Presidential Declaration, G.S.R.562 (E)=</p>

	<p>C.O. 273 was issued by the President under Article 370 (3) of the Constitution of India on 06.08.2019. It read that:</p> <p><i>'In exercise of powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August 2019, all clauses of the said Article 370 shall cease to be operative except the following which shall read as follows, namely:</i></p> <p><i>"Article 370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in Article 152 or Article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgment, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under Article 363 or otherwise"</i></p>
3.10.2019	The present Writ Petition is filed.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. ____ OF 2019
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

1. People's Union for Civil Liberties
Through its General Secretary,
Dr. V. Suresh Having its Office

Petitioner No. 1

- 2.N.D. Pancholi, s/o Late Shri Data Ram,

Petitioner No. 2

Versus

1. Union of India,
Through Its Secretary,
Ministry of Home Affairs,
North Block, Cabinet Secretariat,
Raisina Hill,
New Delhi - 110 001

...Respondent No. 1

2. Union of India,
Through Its Secretary,
Ministry of Law and Justice
Jammu and Kashmir,
Shastri Bhavan, New Delhi- 110 001

....Respondent No. 2

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION
OF INDIA

TO

THE HONOURABLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF THE

HONOURABLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE

PETITIONER ABOVE NAMED

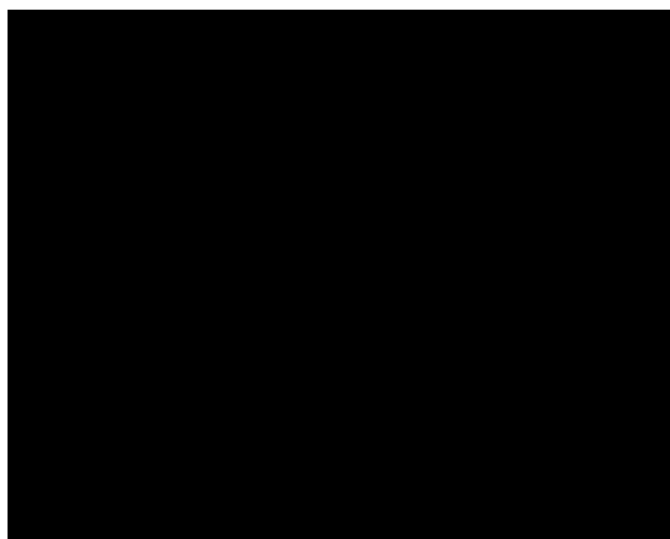
MOST RESPECTFULLY SHOWETH:

1. That this Writ Petition is being filed by way of public interest litigation, seeking appropriate Writ, Direction or Order for declaring the Presidential Order G.S.R. 551(E) (C.O. 272) dated 05.08.2019, Presidential Order G.S.R. 562(E) (C.O. 273) 05.08.2019, and the Jammu and Kashmir (Reorganisation) Act of 2019 as unconstitutional and void. True and correct copies of the said Orders dated 5.8.2019, 6.8.2019 and Act of 2019 are at **Annexures P-1** (Pages. ~~57-58~~ ⁵⁷⁻⁶⁰), P-2 (Pages.....) and P-3 (Pages. ⁶¹⁻¹¹⁵.....) respectively.

2. That the impugned Presidential Orders and the legislation are *ex facie* unconstitutional. They are arbitrary, contrary to the Basic Structure of the Constitution, principles of Rule of Law, Federalism, Democracy and the Separation of Powers, apart from violating the Fundamental Rights.

3. That the people of Jammu and Kashmir, governed by the J&K Constitution, are concerned about their constitutional rights as well as human rights - economic, social, cultural and civil and political. They ought to have been consulted before such a drastic change was introduced. Not only this, even after promulgation of Presidential Orders, there is complete negation of people's fundamental and basic human rights.

4. The Petitioners have not approached any Tribunal or any other Court at any point of time before or after filing of the present Writ Petition for similar relief as the Petitioners does not have any personal stake in the matter. The Petitioners are not involved in any civil, criminal, or revenue litigation, which may have any legal nexus with the issues involved in this Public Interest Litigation. The Petitioners have not approached any authority seeking similar relief as prayed in the present Petition. That the Petitioner No, 1 is an association and is not a registered organization



5. That the Petitioner No. 1, People's Union for Civil Liberties (PUCL), is a civil liberties and human rights body formed in 1976 by Sh. Jayaprakash Narayan, Acharya Kriplani, Krishna Kant and others, and Petitioner No. 2 is its Vice-President. Justice V.M. Tarkunde, Justice Rajinder Sachar, Rajni Kothari, K.G. Kannabiran and others were associated with PUCL as its President. The Organization has twenty-five state branches across India and has been raising awareness about civil liberties and also fighting for their protection. PUCL has conducted many fact-finding enquiries and has compiled several reports on human rights violations in India. Among several cases fought by PUCL, few are: Telephone tapping case (1997) 1 SCC 301, Fake police encounter in Manipur (1997) 3 SCC 463; Disclosure of criminal background and assets by candidates, (2003) 9 SCC 490; Challenge to POTA (2004) 9 SCC 980; Encounter killings in Maharashtra, (2014) 10 SCC 635, among others. The Petitioner No. 2 is the Vice-President of Petitioner No. 1.
6. That the Petitioners are indicating herein below the main points, among others, raised in this writ petition:
- A. The two Presidential Orders are *ultra vires* the Constitution.
 - B. After the J&K Constitution came into effect in 1957, as envisaged in Article 370 of the

Constitution, it was not permissible to issue any Presidential Order.

C. The aforesaid impugned Orders and Act are in violation of the Basic Structure of the Constitution, Federalism being a part of the Basic Structure of the Constitution.

D. The aforesaid impugned Orders and the Act are in violation of Article 3 of the Constitution as the said Article does not permit a State being converted into a Union Territory.

E. The aforesaid impugned orders are in violation of Article 367, 368 and 372 of the Constitution.

BRIEF FACTS AND THE HISTORICAL BACKGROUND

7. That the Maharaja Bahadur of the Princely State of Jammu & Kashmir had promulgated the J&K (Constitution) Act on Sep7, 1939. The said Act consisted of 78 Sections and 5 schedules. This was promulgated by the Maharaja himself and not framed by any Constituent Assembly elected by the people. The Act contained provisions with regard to the executive, legislature, as well as the judiciary (the High Court).

8. That subsequently, there was an Annual Session of National Conference on the 29th-30th September 1944 at Sopre in Kashmir to approve a manifesto (New Kashmir).

The said manifesto was unanimously approved. Among other things, the Manifesto dealing with citizenship required that the people of J&K State should be guaranteed (i) freedom of speech (ii) freedom of press (iii) freedom of assembly and meetings (iv) freedom of street processions and demonstrations. The Manifesto also declared "*freedom of conscience and worship shall be guaranteed for all citizens*" and that "*no citizen may be arrested or detained except by decision of a Court of law.*" It further said that all citizens would have the right to work i.e. right to receive guaranteed work and the right to rest. The Manifesto declared that all students were to have a right to receive education and scholarships were to be given to the deserving poor students. Women citizens should be accorded equal rights with men in all fields of national life and the law should give special protection to the interests of mother and child. The said manifesto was submitted to the Maharaja for consideration, by making it clear that said manifesto would alone be acceptable to the people of the State.

9. That the Indian Independence Act was passed on 18.07.1947 dividing British India into two independent dominions i.e. India and Pakistan. On 25.07.1947, Lord Mountbatten addressed the Chamber of Princes and advised them that they had become independent, to accede to one or other of the Dominions before the transfer of

power, keeping in mind the geographical contiguity of their states. Lord Mountbatten also circulated a Draft Instrument of Accession for discussion, which provided for surrender to the appropriate dominion the power over three subjects - namely, communication, defense and external affairs.

10. That Section 8(2) of the Independence Act, 1947 empowered the Governor General of India to adapt the Government of India Act, 1935 as the Interim Constitution till the enactment of the Constitution by the Constituent Assembly of India. The Act as adapted, served as the Constitution of India for the period 15th August, 1947 to 25th January, 1950. The Act was adapted on 15.8.1947 by the India Order (Provisional Constitution), 1947.

11. That in the Indian Dominion, accession was to be made under Sec.6 of the Government of India Act, 1935 as adapted by Sec. 9 of the Indian Independence Act, 1947.

A true typed copy of Section 6 of the Government of India Act, 1935 and a true and correct copy of Indian Independence Act, 1947 are annexed at **Annexures P-4** (Pages.116-118.) and **Annexure P-5** (Pages 119-121.) respectively.

12. That a State could accede to either dominion by executing an instrument of accession signed by the Ruler and

accepted by the Governor General of the Dominion concerned.

13. That according to the Cabinet Mission Plan of May 1946, following Partition, Kashmir, like any other State had three alternatives: to assert complete independence, to accede to Pakistan or to accede to India. Power to take the decision vested in the Ruler. However, Kashmir did not accede to either dominion by 15th August 1947.
14. That after 15th August, 1947, the people of the State demanded establishment of a responsible government which had put the then Maharaja Hari Singh in a "tight corner". He was indecisive and offered to sign a Standstill agreement with both India and Pakistan which aimed at continuing the existing relationship pending final decision regarding the future of the State. Maharaja Hari Singh signed a standstill agreement with Pakistan and was negotiating a similar agreement with India.
15. That in this indecisive situation, the tribal invasion took place on 20.10.1947 where a large number of tribesmen from the territory of Pakistan, armed with brand guns, machine guns, mortars and flame throwers attacked the frontiers of the State. Maharaja thought of accession to save his State and therefore, wrote a letter enclosing the Instrument of Accession duly signed by Maharaja Hari Singh. The following statement in the letter is relevant:

"With the conditions obtaining at present in my State and the great emergency of the situation as it exists I have no option but to ask for help from the Indian opinion. Naturally, they cannot send the help asked for without my State acceding to India. I have accordingly decided to do so and I attach the instrument of accession for acceptance by your government"

Attached to the said letter was the Instrument of Accession duly signed by Maharaja Hari Singh. The operative part of the same reads as follows:

"Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modifications as the Governor-General may by order specify be applicable to the Dominion of India;

And whereas the Government of India Act, 1935, as adopted by the Governor-General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof;

Now, therefore I Shri manIndar Mahander Raj rajeshwar Maharaja dhiraj Shri Hari Singh Ji Jammu Kashmir Naresh Tatha Tibet adiDeshadhi pathi Ruler of Jammu and Kashmir State in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession."

Lord Mountbatten, Governor General of India indicated his acceptance in the following words:

I do hereby accept this instrument of accession

Dt. 27th Day of October, 1947

16. That the instrument of accession signed by Maharaja Hari Singh and accepted by the Governor General of India was thus unconditional, voluntary and absolute. As such, it bound the State of J&K and India together, legally and constitutionally. The issue of accession of J&K was finally settled. True typed copies of the letter dated 26.10.1947 by the Maharaja of Kashmir and of the Instrument of Accession of Jammu & Kashmir dated 26.10.1947 along with the Acceptance by the Governor General dated 27th October, 1947 are **Annexures P-6 (Pages 142-143)** and **P-7 (Pages 142-143)** respectively.

17. That in the meanwhile, on 5th March, 1948, the Maharaja appointed an interim government making Sheikh Mohammed Abdullah as the Prime Minister and appointing a Council of Ministers. It was further provided that the Council of Ministers shall take appropriate steps as soon as normal conditions were restored, to convene a National Assembly based on adult suffrage for framing the Constitution. This declaration paved the way for a democratic Constitution.

18. That despite the accession, the State was still to be governed by the Constitution Act, 1939. On 17.10.1949, on a motion of Shri Gopala swami Ayyangar, Article 306-A (now Article 370) was discussed in the Constituent

Assembly and added to the draft Constitution. Article 370 of the Constitution of India provided that the relations between India and Jammu and Kashmir were to be governed by the provisions of Article 370. Herein, the Constituent Assembly was made aware that the State's association with India would be on terms of the Instrument of Accession. Sh. Gopal swami Ayyangar, in explaining his motion said:

"..at present, the State is a unit of a Federal State i.e. Dominion of India. This Dominion is getting transferred into a republic which will be inaugurated on 26.01.1950. The Jammu and Kashmir State, therefore, has to become a unit of the new Republic of India."

Sh. Ayyangar said that relationship of all States to Government of India, till India became a republic, was based on the Instrument of Accession. He however, clarified that as regards other States, instrument of accession will be a thing of the past once India becomes a republic but it would not be so in the case of Kashmir due to the special conditions prevailing in Kashmir.

19. Thatafter this clarification by Sh. Ayyangar, the question of drafting Art 370 (Art 306A in the draft constitution) was considered. From the debates and negotiations, it was made perfectly clear by the State Government that it was for the Constituent Assembly of the State to frame the Constitution of the State and that

any provision that may be made in the Constitution of India regarding Kashmir, the basis should be Instrument of Accession and till the Constituent Assembly of the State consented to accede in any other subject to the Union, the relationship between India and the State should be limited to the subjects specified in the Instrument of Accession.

20. That in fact, Shri N. Gopala swami Ayyangar stated in the Indian Constituent Assembly that:

"Then we come to clause (2). You will remember that several of these clauses provide for the concurrence of the Government of Jammu and Kashmir State. Now, these relate particularly to matters which are not mentioned in the Instrument of Accession, and it is one of our commitments to the people and Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which may be called in the State for the purpose of framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the State."(Emphasis supplied)

21. That furthermore, Gopala swami Ayyangar explained that Article 370 cannot be invoked after the State's Constituent Assembly has "taken its decision" on the Constitution and "on the range of federal jurisdiction over the State". He stated as follows:

"..the provision is made that when the Constituent Assembly of the State has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the state, the President may, on

the recommendation of that *Constituent Assembly*, issue an order that this Article 306A (370) shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issued any order of that kind, the recommendation of the *Constituent Assembly* will be a condition precedent." (Emphasis supplied)

22. That on 17.10.1949, the Constituent Assembly of India adopted Article 306A which later became Article 370 in the final Constitution of India. Thus, a special provision for constitutional relationship of the State with the Union came into existence. A true and correct copy of the Constituent Assembly Debates pertaining to Article 306A (Pg 421-429 in Vol 10) dt. 17.10.1949 is **Annexure P-8** (Pages 146-156.)

23. That Yuvraj Karan Singh, in whose favour the Ruler had abdicated the powers, made a proclamation on 25.11.1949 acting on the advice of Council of Ministers, to the following effect:

"Whereas with the inauguration of the new Constitution for the whole of India now being framed by the Constituent Assembly of India, the Government of India Act, 1935, which now governs the constitutional relationship between this State and the Dominion of India will stand repealed:

.....

I now hereby declare and direct that the Constitution of India shortly to be adopted by the Constituent Assembly of India shall, insofar as it is applicable to the State of

Jammu and Kashmir, govern the constitutional relationship between this State and shall be enforced in this State by me my heirs and successors in accordance with the tenor of its provisions;

That the provisions of the said Constitution shall, as from the date of its commencement, supersede and abrogate all other Constitutional provisions inconsistent therewith which are at present in force in this State."

24. That after Art 370 was enacted, the Constitutional relationship of J&K with India changed from those created by Instrument of Accession to the position under Art 370 of the Constitution of India. This Article gave Kashmir a special status making it clear that the provisions governing the relationship of Part B States will not apply to Kashmir. The Constitution of India came into force on 26.01.1950. Jammu and Kashmir was identified as a state of India under Article 1(2) of the Constitution of India and the Schedule I thereof.

25. That Article 370 reads as follows:

"370. Temporary provisions with respect to the State of Jammu and Kashmir

(1) Notwithstanding anything in this Constitution,

(a) the provisions of Article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters

specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify Explanation For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharajas Proclamation dated the fifth day of March, 1948 ;

(c) the provisions of Article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub clause (b) shall be issued except in consultation with the Government of the State: Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub clause (b) of clause (1) or in the second proviso to sub clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification"

26. That a bare reading of the Article 370 makes the following position clear:

- I. The marginal note says that it was a temporary provision with respect to State of Jammu & Kashmir and the provision begins with a non-obstante clause, namely, "Notwithstanding anything in this Constitution", meaning thereby the constitutional provisions would apply to the extent permitted under Article 370.
- II. Article 370(1)(b) limits powers of the Parliament to make laws in respect of the State of Jammu & Kashmir. According to 370(1)(b)(i), the President "in consultation" with the "Government of the State" can declare those matters in the Union list and concurrent list which correspond with the matters specified in the Instrument of Accession, meaning thereby that the matters which fall within the Instrument of Accession are relatable to items in the Union list and concurrent list will apply to State of Jammu & Kashmir.

III. As far as other matters in the said list i.e. Union list and concurrent list are concerned, as per Article 370(1)(b)(ii), the President may by order, with the concurrence of the Government of the State, can apply those Lists to the State of Jammu & Kashmir.

IV. The meaning of the term 'Government of the State' has been provided in the Explanation, namely, the person for the time being recognized as the Maharaja of Jammu & Kashmir acting on the advice of Council of Ministers as per Maharaja's Proclamation dated 5th March 1948.

V. It is clear from the above that the President either in consultation with the Maharaja of Jammu & Kashmir or with the concurrence of Maharaja of Jammu & Kashmir could apply the items from the Union list as well as the Concurrent list to the State of J&K. However, as far as the items given in IoA are concerned, they were to apply to the State of Jammu & Kashmir in consultation with the Maharaja.

VI. Art. 370(1)(c) makes Article 1 and Article 370 of the Constitution of India directly applicable to the State of Jammu & Kashmir.

VII. Art. 370(1)(d) is important because most of the subsequent declarations by the President have been issued by using the said provision. According to Article 370(1)(d), the President may apply other provisions of the Constitution to the State of J&K with such exceptions and

modifications as the President may by order specify. There are two provisos attached to 370(1)(d). According to the first proviso, in relation to the matters specified in the Instrument of Accession, the President shall not issue an order except "in consultation with the Government of the State". According to the second proviso, which relates to 370(1)(b)(ii) in issuing an order, the President shall require "concurrence of the Government". The intention of 370(1)(d) is clear, namely, that if the President wishes to make any change in the Constitution in relation to matters concerning the Instrument of Accession, he could do that only with consultation with the Maharaja, and if the President wanted to make changes in the Constitution in relation to other items (other than the instrument of accession), he could have done so with the concurrence of the Maharaja.

VIII. The above power, which were given to the President/Government of the State (Maharaja at that time), was further subject to Article 370(2). It is important that 370(2) uses the term 'concurrence of the government of the State' referable to Article 370(1)(b)(ii) and second proviso to sub-clause (d) of Article 370(1). These provisions relate to items other than the Instrument of Accession, for which concurrence as against the consultation is mentioned. It further says that if the President is issuing a declaration seeking concurrence of the Government of the State and

before the Constituent Assembly for framing the Constitution of the State i.e. J&K was convened, the said matter shall be placed before the Constituent Assembly and the Constituent Assembly shall take a decision on the issue. It means that as far as the Instrument of Accession is concerned, the same cannot be changed but if any other issue provided in the Constitution (i.e. Union list/concurrent list or any matter related to the Constitution) for which concurrence is sought, the decision of the Constituent Assembly shall be final.

IX. Article 370(3) starts with a non-obstante clause. Art. 370(1) also starts with a non-obstante clause. The meaning of these two clauses will be that the provisions of this Article are notwithstanding the Constitution, which shall mean that the power given under Article 370(3) relates to what is provided in Article 370 and not relatable to other parts of the Constitution and that for Art. 370, power has been given to the President who may by public notification order that 370 shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify. This power given to the President, however, is again subject to the proviso, which says that before President issues such a notification, recommendation of the constituent assembly shall be necessary. It is therefore, clear that for exercising the

powers under 370(3), recommendation of the Constituent Assembly was necessary.

27. The entire reading of Art 370 therefore, makes it clear that either for making any change to the Union/Concurrent list or for making any provision of the Constitution applicable to J&K, Article 370 mandated that it should be placed before the Constituent Assembly. Similarly, the power given to the President under 370(3) was also subject to the recommendation of the Constitution Assembly of the State of J&K. Art. 370 therefore, recognized the Instrument of Accession and also that the provisions of the Constitution which would apply to J&K, should be done with approval/recommendation of the Constituent Assembly of J&K. The meaning was very clear i.e. the J&K Constitution would be framed on the basis of the Constitution of India as acceptable to the Constituent Assembly of State of Jammu & Kashmir.

28. That once the Constitution of J&K came into effect, it was that Constitution which would apply to J&K with such modifications in the Constitution of India as the Constituent Assembly of J&K deemed fit to apply to the State of J&K. Viewed thus, Article 370, in fact, freezes in time and becomes a provision to show the link between the Constitution of India and the Constitution of Jammu & Kashmir only.

29. That after the Indian Constitution came into force, in exercise of powers conferred by Article 370(1)(ii), the President of India issued the Constitution (Application to Jammu & Kashmir) Order, 1950 in consultation with the government of Jammu & Kashmir. In the said Presidential Order, the subjects already mentioned in the instrument of accession were elaborated as well as certain additions were also made. Two Schedules were also added.

- i. The First Schedule related to the jurisdiction of the Union Parliament over the State and enumerated the appropriate items in the Union List of the Seventh Schedule to the Constitution.
- ii. In the Second Schedule, provisions of the Constitution, which in addition to Art.1 and Art 370, were to apply to Kashmir, were given. The said Presidential order extended the powers of Union Parliament beyond what was given in the Instrument of Accession. The understanding was that constitutional relationship of the State for J&K immediately after application of Constitution of India was to be governed by order of 1950.

A true and correct copy of the Constitution (Application to Jammu & Kashmir) Order, 1950 is **Annexure P-9** (Pages.151-162)

30. That the General Council of the All India Jammu & Kashmir National Conference passed a resolution on 27.10.1950 asking for a convening of a Constituent Assembly for the State. The following part of the Resolution is significant:

"The General Council recommends to the Supreme National Executive of the people to take immediate steps for convening a Constituent Assembly passed by the adult suffrage and then embracing all sections of the people and all the Constituents of the State for the purposes of determining the future shape and affiliation of the State of Jammu and Kashmir. In this sovereign assembly embodying the supreme will of the people of the State, we shall give ourselves and our children a Constitution worthy of the traditions of our freedom struggle and in accordance with the principles of New Kashmir." (Emphasis supplied)

31. That as a matter of fact, the Maharaja in his proclamation of 05.03.1948 had promised his people the right to have a Constituent Assembly for the purpose of framing the Constitution. Art 370(2) also envisaged the convening of the Constituent Assembly for the said purpose.

32. That on 31st October 1951, on the very first meeting of the Assembly, the decision was taken to frame a Constitution for the further governance of the country. Further, within a month of the formation of the constituent assembly of Jammu and Kashmir, a 17 member "Basic Principles Committee" was constituted on 5th November 1951. G. M. Bakshi, Mirza Afzal

Beg, D. P. Dhar and Mir Qasim were members of this committee and this committee set out the basic draft of the Constitution of Jammu and Kashmir.

33. That the Delhi Agreement, 1952 took place between the representatives of Kashmir Government and the representatives of Indian Government vis-à-vis several important decisions taken by the Constituent Assembly. The arrangements made in the Delhi Agreement were finally adopted on August 21, 1952.

34. That there were certain developments in between which did not allow the debates in the Constituent Assembly to continue. However, in 20.10.1953, two Committees were set up i.e. Advisory Committee on Fundamental Rights and Citizenship and Basic Principles Committee. The Constituent Assembly on 06.02.1954 adopted the reports of the Basic Principles Committee and Fundamental Rights and citizenship. Another report of Drafting Committee was presented on Feb 12th 1954, which was adopted on Feb 15th 1954. This adoption embodied the ratification of the State's accession to India.

35. That on 14.05.1954 the President of India in exercise of powers under Art 370 issued an order endorsing the relationship of Kashmir with India as mentioned in the Delhi Agreement. This order superseded the Constitution (Application to Jammu & Kashmir) Order, 1950. Though by this order, the powers of Union Parliament were enlarged in

relation to the Kashmir, the internal autonomy of the State was not compromised. This order also recognized the unique position of Kashmir in the Union. For internal administration of the State after its accession to India, an interim Constitution was drawn up to take care of the changed situation in Kashmir. There were several amendments made in the Constitution Act, 1939 and the said Act served as the interim Constitution of Jammu & Kashmir pending the enactment of a fully democratic Constitution by the State Constituent Assembly. The Presidential Order provided, among others, that:

- (i) The State was guaranteed territorial integrity. No change in the name or boundary of the State could be brought about without the consent of the State Legislature. This was a proviso to Article 3 of the Indian Constitution.
- (ii) It introduced Article 35 A which provides that the State could define its permanent residents and confer on them special rights and privileges with regard to employment under the State Government, acquisition of immovable property in the State, settlement in the State, and so forth.
- (iii) Proviso to Article 7 stated that the State's permanent residents, having migrated to Pakistan, returning to the State either under a

permit for resettlement or under a law for permanent return, shall be deemed to be a citizen of India.

This 1954 Order also reiterated that no amendment under Article 368 of the Constitution would apply to Jammu and Kashmir except those made under Article 370(1). This 1954 order was passed with the concurrence of the Constituent Assembly of Jammu and Kashmir and superseded the aforesaid 1950 order. A copy of the 'The Constitution (Application to Jammu and Kashmir) Order, 1954' has been annexed herewith and marked as **Annexure P-10 (Pages 163 to 184)**

36. The Constitution of the State of Jammu & Kashmir was adopted on 17.11.1956 and came into force on 26.01.1957. The Constituent Assembly was thereafter dissolved on 26.01.1957 after the first legislative assembly elections took place in State of Jammu and Kashmir. This may be contrasted with the Constituent Assembly of India, which adopted the Constitution of India on 26.11.1949 and resolved to 'adjourn till such date before 26.01.1950 as the President may fix'. It eventually met again on 24.01.1950. The President of the Constituent Assembly then declared: "the house will stand adjourned now *sine die*". The Constituent Assembly of Jammu and Kashmir, however, resolved to dissolve itself. The President, G.M. Sadiq declared: "*today this historic session*

ends and with this the Constituent Assembly is dissolved according to the resolution passed on 17.11.1956."

37. That the Constitution of Jammu & Kashmir, 1957 says in the Preamble that the Constitution further defines the existing relationship of the State with the Union of India "*as an integral part thereof*". Section 3 of the Jammu & Kashmir Constitution specifically mentions that the State of Jammu & Kashmir is and shall be an integral part of the Union of India. As per Section 4, the territory of the State shall comprise all the territories which, on the 15th August, 1947, were under the sovereignty and suzerainty of the Ruler of the State. Though the Constitution of J&K specifically recognizes that J & K is and shall be an integral part of Union of India, the same Constitution preserves and protects the special features and the rights of the people of J&K. The constitutional history, as mentioned above, being a part of the Constitution of India, ought to respect what was envisaged under Article 370 and the end result of it i.e. the formation of the Constitution of J&K. Any act to tinker with the Constitution of J&K will, therefore, amount to tinkering the Constitution of India. In one sense, the Constitution of J&K is like a Basic Feature of the Constitution as laid down in *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225

38. That it is thus clear from the above history and the manner of integration of Jammu and Kashmir into India that Article

370 was *transitory* only in the sense that the right to decide permanently on the relation between India and Jammu and Kashmir was to be finally decided by the Constituent Assembly of Kashmir through the Constitution of Jammu and Kashmir. Without the sanction of the Constituent Assembly, no further changes could be made. The Constituent Assembly dissolved in 1957 and therefore, there is no question of making any further changes to the relation between India and Kashmir by any other authority. Article 370 is a solemn promise by the Constitution to the people of Jammu & Kashmir State. The relation between India and Kashmir as laid down in the Constitution of Kashmir is part of the Basic Structure of the Indian Constitution and cannot be changed except with the approval of the Constituent Assembly of Kashmir. The relationship between India and Kashmir are frozen in time in 1957 and no changes can be made to that. Thus, the present changes, which are sought to be brought in, are bad ab initio and cannot be allowed to operate. The sole ratification authority to the extension of the Centre's powers over the State on the extension of additional provisions of the Constitution of India was gone.

39. That in the case of *Prem Nath Kaul* (AIR 1959 SC 749) the Constitutional Bench of the Supreme Court, while interpreting Art. 370 made the following observations:

“34. Having provided for the legislative power of Parliament and for the application of the articles of the

Constitution of the State, Article 370 clause (2) prescribes that if the concurrence of the Government of the State required by the relevant sub-clauses of clause (1) has been given before the Constituent Assembly of Kashmir has been convened, such concurrence shall be placed before such Assembly for such decision as it may take thereon. This clause show that the Constitution-makers attached great importance to the final decision of the Constituent Assembly, and the continuance of the exercise of powers conferred on Parliament and the President by the relevant temporary provisions of Article 370(1) is made conditional on the final approval by the said Constituent Assembly in the said matters.

35. Clause (3) authorises the President to declare by public notification that this article shall cease to be operative or shall be operative only with specified exceptions or modifications; but this power can be exercised by the President only if the Constituent Assembly of the State makes recommendation in that behalf. Thus the proviso to clause (3) also emphasises the importance which was attached to the final decision of the Constituent Assembly of Kashmir in regard to the relevant matters covered by Article 370.

38. On the said construction the question which falls to be determined is: Do the provisions of Article 370(1) affect the plenary powers of the Maharaja in the matter of the governance of the State? The effect of the application of the present article has to be judged in the light of its object and its terms considered in the context of the special features of the constitutional relationship between the State and India. The Constitution-makers were obviously anxious that the said relationship should be

finally determined by the Constituent Assembly of the State itself; that is the main basis for, and purport of, the temporary provisions made by the present article; and so the effect of its provisions must be confined to its subject-matter. It would not be permissible or legitimate to hold that, by implication, this article sought to impose limitations on the plenary legislative powers of the Maharaja. These powers had been recognised and specifically provided by the Constitution Act of the State itself; and it was not, and could not have been, within the contemplation, or competence of the Constitution-makers to impinge even indirectly on the said powers. It would be recalled that by the Instrument of Accession these powers have been expressly recognised and preserved and neither the subsequent proclamation issued by Yuvaraj Karan Singh adopting, as far as it was applicable, the proposed Constitution of India, nor the Constitution order subsequently issued by the President, purported to impose any limitations on the said legislative powers of the Ruler. What form of Government the State should adopt was a matter which had to be, and naturally was left to be, decided by the Constituent Assembly of the State. Until the Constituent Assembly reached its decision in that behalf, the constitutional relationship between the State and India continued to be governed basically by the Instrument of Accession. It would therefore be unreasonable to assume that the application of Article 370 could have affected, or was intended to affect, the plenary powers of the Maharaja in the matter of the governance of the State. In our opinion, the appellant's contention based on this article must therefore be rejected."

40. That while some of the subsequent judgments of the Supreme Court appear to have taken a different view those judgments are *per in curiam* since they do not refer to the above cited Supreme Court Judgment of the Constitution Bench or are in any case not of a larger Bench.

41. There have been 47 Presidential orders under Article 370 from 1954 to 1994. It is, however, submitted that all the Presidential Orders subsequent to 1957 i.e. after the Jammu & Kashmir Constitution came into effect, are unconstitutional and in violation of the words and spirit of Article 370 of the Constitution.

THE RECENT EVENTS:

42. The Governor of Jammu & Kashmir issued a proclamation on 20.6.2018 under Section 92 of the Constitution of Jammu and Kashmir with the concurrence of the President of India, thereby assuming to himself the functions of the Government and Legislature of the State. The State Assembly, initially kept in suspended animation was eventually dissolved by the governor on 21.11.2018. The President of India issued a Proclamation under Article 356 of the Indian Constitution on 19th December 2018, imposing President's Rule in Jammu and Kashmir. It is pertinent to note that vide the said Notification, the operation of the second proviso to Article 3 of the Constitution pertaining to Jammu and Kashmir was suspended. The extract of the second proviso to Article 3 reads as follows –

"Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State."

A true and correct copy of the Notification dated 19th December 2018 imposing President's rule is at **Annexure P-11 (Pages .191-193).**

43. Subsequently, on 03.01.2019, the President's Rule in Jammu and Kashmir was extended for a further period of six months under article 356(4) of the Constitution of India, which was again extended on 03.07.2019. The said Presidential Rule was extended and continued to be in existence as the impugned orders/Act were passed.

44. That on 05.08.2019, a Presidential Order, G.S.R.551(E) = C.O. 272 - The Constitution (Application to Jammu and Kashmir) Order, 2019 was passed by the President of India allegedly in exercise of the powers conferred by clause (1) of article 370 of the Constitution. This order supersedes the Constitution (Application to Jammu and Kashmir) Order, 1954 by which special status had been given to Jammu and Kashmir. It also therefore does away with Article 35A and 35(3). It further states "(b) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the

advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir; (c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers". It further seeks to amend Article 367 of the Constitution of India so as to read Constituent Assembly in Article 370 as State Legislative Assembly.

45. That the Rajya Sabha, on the same day i.e. 05.08.2019, passed the Jammu and Kashmir (Reorganisation) Bill, 2019, unanimously. The Bill provided for reorganisation of the state of Jammu and Kashmir. It reorganised the state of Jammu and Kashmir into: (i) the Union Territory of Jammu and Kashmir with a legislature, and (ii) the Union Territory of Ladakh without a legislature. The Union Territory of Jammu and Kashmir will be administered by the President through an Administrator appointed by him known as the Lieutenant Governor. The Union Territory of Ladakh will be administered by the President, through a Lieutenant Governor appointed by him.

46. On 06.08.2019, a Declaration, G.S.R.562 (E)= C.O. 273 was issued by the President under Article 370 (3) of the Constitution of India on 06.08.2019. It read that:

'In exercise of powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August 2019, all clauses of the said Article 370 shall cease to be operative except the following which shall read as follows, namely:

"Article 370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in Article 152 or Article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgment, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under Article 363 or otherwise"

47. Effectively, therefore, Article 370 while remaining on the text of the Constitution was nullified and abrogated. That the impugned Jammu and Kashmir Reorganisation Act, 2019 came into force on 09.08.2019 following the assent of the President.

48. That the above COs dated 05.08.2019 and 06.08.2019 as well as the Jammu and Kashmir (Reorganization) Act, 2019 are challenged on the following, among other, grounds:

GROUND:

- A. Because all the Presidential order since 1957 are invalid and unconstitutional to the extent that they were not ratified by the Constituent Assembly of the State as mandated under Article 370(2) of the Constitution of India.
- B. Because all the Presidential orders since 1957 till date, which require the ratification of the Constituent Assembly of the State under Article 370(2) and its recommendation under Article 370(3) are invalid, void and unconstitutional since the Constituent Assembly was dissolved in 1957 without making any recommendations to the said effect. Reliance may be placed on the Constitutional Assembly debate as specified above.
- C. Because, Article 370, being a temporary, transitional and special provision, recognizes that the State of Jammu & Kashmir shall be governed by the Jammu & Kashmir Constitution, 1957 and all laws which have been approved/notified by the Constitution for the purpose of framing the Jammu & Kashmir Constitution shall alone have sanctity. After the J&K Constitution came into effect, Article 370 has fulfilled its purpose and remains a historical link to show how the J&K Constitution was framed.

D. Because, in *Prem Nath Kaul v. State of J&K*, AIR 1959 SC 749, the Constitutional Bench consisting of five judges unanimously held, as regards the interpretation of Article 370, thereby recognizing that the final decision rests with the Constituent Assembly, as follows:

“34. Having provided for the legislative power of Parliament and for the application of the articles of the Constitution of the State, Article 370 clause (2) prescribes that if the concurrence of the Government of the State required by the relevant sub-clauses of clause (1) has been given before the Constituent Assembly of Kashmir has been convened, such concurrence shall be placed before such Assembly for such decision as it may take thereon. This clause show that the Constitution-makers attached great importance to the final decision of the Constituent Assembly, and the continuance of the exercise of powers conferred on Parliament and the President by the relevant temporary provisions of Article 370(1) is made conditional on the final approval by the said Constituent Assembly in the said matters.

35. Clause (3) authorises the President to declare by public notification that this article shall cease to be operative or shall be operative only with specified exceptions or modifications; but this power can be exercised by the President only if the Constituent Assembly of the State makes recommendation in that behalf. Thus the proviso to clause (3) also emphasises the importance which was attached to the final decision of the Constituent Assembly of Kashmir in regard to the relevant matters covered by Article 370.

[...]

38. On the said construction the question which falls to be determined is: Do the provisions of Article 370(1) affect the plenary powers of the Maharaja in the matter of the governance of the State? The effect of the application of the present article has to be judged in the light of its object and its terms considered in the context of the special features of the constitutional relationship between the State and India. The Constitution-makers were obviously anxious that the said relationship should be finally determined by the Constituent Assembly of the State itself; that is the main basis for, and purport of, the temporary provisions made by the present article; and so the effect of its provisions must be confined to its subject-matter. [...]"

E. Because in *Sampat Prakash v State of J&K*, AIR 1970 SC 1118, another Constitution Bench of this Hon'ble Court placed a different interpretation on Article 370 without taking into consideration the judgment in *Prem Nath (supra)*, which was binding on it. The said judgment, besides being *per incuriam*, is also contrary to the intent and purpose of Article 370. The judgment commits a grave error by holding, on the basis of CO No. 44 dated 15.11.1952 that the Constituent Assembly of the State did not desire that the Article shall cease to be operative. The judgment also incorrectly places reliance on Art 368 to infer that the President shall have power to issue orders under Article 370 of the Constitution. would be necessary and cannot be curtailed judgment is patently flawed for the following reasons:

- a. While discarding the argument about the history of this provision, the Court said that ‘the situation that existed when this article was incorporated in the Constitution has not materially altered,’ which is not correct because in the meanwhile, the Constitution of J&K came into effect in the year 1957. Further, it goes contrary to the judgment in *Prem Nath* as well as the explanation given by Gopalswamy Ayyangar to Article 370.
- b. The Apex Court also brushed aside the Article 370(2) which lays down this condition, and said that it spoke of “concurrence given by the Government of the state before the Constituent Assembly was convened and makes no mention at all of the completion” of its work or its dissolution. It is submitted that the final power of the State’s Constituent Assembly to ratify any change or to refuse to do so is clearly indicated. The plain readings of Article 370 and the Constituent Assembly Debates of India, as mentioned above, make this point clear. Moreover, no reliance was placed on the 1959 judgement of *Prem Nath Kaul*, which ruled to the contrary. To assume that since the Assembly did not expressly recommend that Article 370 should be abrogated, would lead to the President of India acquiring the sole power to unilaterally invoking Article 370 given the absence of the decisive ratifying body; is to deny the people of the state of Jammu and Kashmir

their collective history and our constitutional commitment to them.

c. The Supreme Court further overlooked the fact that given its interpretation, Article 370 can be abused by a collusive State and Central governments or by a majoritarian Central Government to reduce Article 370 to a nought. [as seen in the orders of 05.08.2019 and 06.08.2019]

F. Because this Hon'ble Court in *Mohammed Maqbool Damnoo v State of J&K* [(1972) 2 SC 735], again completely overlooked the 1959 ruling of *Prem Nath Kaul*. There is no explanation of why a clear precedent was ignored by the subsequent benches of the Apex Court. The Supreme Court found no difference between an 'elected' *Sadar-I-Riyasat* and an 'appointed' Governor. It refused to acknowledge the dilution of a democratic process. It must also be noted that post this judgment of 1972, the Supreme Court, in the case *Kesavananda Bharati*, 1973, formulated the doctrine of the basic structure of the Constitution being unamendable.

G. Because the Presidential orders dated 05.08.2019 passed under Article 370 (1)(d) and 06.08.2019 passed under Article 370(3) are void and unconstitutional for the very reason that the Constituent Assembly was dissolved in 1957 and the mandated ratification and recommendation, respectively in the clauses, cannot be sought.

H. However, assuming but not accepting that the Presidential orders under Article 370 passed before 05.08.2019 are valid in law, the Presidential Order G.S.R. 551(E) (C.O. 272) and Presidential Order G.S.R. 562(E) (C.O. 273) are constitutionally invalid.

The Presidential Order G.S.R. 551(E) (C.O. 272) is constitutionally invalid.

I. Because impugned Presidential Order C.O.272, purportedly passed under Article 370(1) of the Constitution of India, is *ultra vires* the authority conferred by the same Article. The Presidential Order incorrectly invokes Article 370(1)(d) to effectively amend the proviso to Article 370(3). Furthermore, the concurrence of the Government of the State of Jammu and Kashmir, which is claimed to be sought, is insufficient. The power under Article 370(1)(d) does not contemplate a blanket application of "all provisions of the Indian Constitution" to "apply in relation to the state of Jammu and Kashmir".

J. Because Article 370(1)(d) cannot be invoked to indirectly amend Article 370(3) of the Constitution of India. It is a well-established principle that "what cannot be done directly cannot be done indirectly." Clause (2) of the Presidential Order purports to amend Article 367 of the Constitution; however, the effect of these amendments is to bring about changes in the text of Article 370 of the Constitution, *via*

Article 367. The Presidential Order stipulates that "in proviso to clause (3) of Article 370 of this Constitution, the expression "Constituent Assembly of the State referred to in clause 2" shall read "Legislative Assembly of the State". It is respectfully submitted that the Presidential Order, in effect amends Article 370 of the Constitution. This runs counter to the elementary proposition of law that a constitutional provision cannot be used to defeat another constitutional provision or to render it nugatory. Since Article 370 cannot be directly amended through a Presidential Order, it also cannot be amended through a backdoor method of inserting a new provision into Article 367, in relation to the State of Jammu and Kashmir.

K. Because Article 370(1)(c) of the Constitution states that "notwithstanding anything in this Constitution, the provisions of Article 1 and of this article shall apply in relation to that State (i.e., the State of Jammu and Kashmir)." Article 370(1)(d) stipulates that "... such of the other provisions of this Constitution" shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify." Following the Rule of Literal Construction, it is evident that Article 370(1)(d) provides constitutional authority to the President, by order, to amend or modify the application of all provisions of the Constitution in relation to the State of Jammu and Kashmir except Articles 1 and 370 itself.

L. Because there is no ambiguity in Article 370, which expressly states that it is the state Constituent Assembly (convened to frame the state constitution) which would be the competent authority to make a recommendation to the President to declare Article 370 inoperative. There is, accordingly, no warrant to use Article 370(1) to substitute the reference to the state Constituent Assembly in Article 370(3) with the state legislative assembly. Clearly, the intent was to divest the protection guaranteed by Article 370(3).

M. Because, during the debates around Draft Article 306A (and later Article 370) on 17.10.1949, Shri Gopalawami Ayyangar, member of the Assembly who moved the provision made it clear that the terms of the relationship between the State of Kashmir and the Indian Union could only be altered following the method set down in clause (3) of the Article. He states that, *"The last clause refers to what may happen later on. We have said article 211A will not apply to the Jammu and Kashmir State...So the provision is made that when the Constituent Assembly of the state has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may on the recommendation of that Constituent Assembly issue an order that this article 306A shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendation of the Constituent Assembly will*

be a condition precedent. That explains the whole of this article...". (Emphasis supplied)

N. Because the power under Article 370(1)(d), extends to amending or modifying the application of the provisions of the Constitution to the State of Jammu and Kashmir. It is humbly submitted that there is no power under the said provision to create an entirely new constitutional provision (in this case, Article 367(4)), which is then applied solely to the State of Jammu and Kashmir. Article 367 of the Indian Constitution provides for interpretation. The said Article as of 04.08.2019 had no mention of Article 370. To assume a power under Article 370(1)(d) which has not been vested as such is fraud on the Constitution. The President has clearly exceeded the confines of the power delegated to him under Article 370(1)(d). It is a cornerstone of democracy and the common law that constituent power does not vest in a single functionary.

O. Because, the second proviso to Article 370(1)(d) stipulates that for matters that do not relate to those specified in the Instrument of Accession, the consent of the Government of the State of Jammu & Kashmir is required. This Hon'ble Court has held in Mohd Maqbool Damnoo v. State of J&K, 1972 1 SCC 536 that the constitutional right to consent to presidential orders is the essential feature of Article 370(1)(b)

and 370(1)(d) and further, that the State of Jammu and Kashmir is entitled to decide who will consent on its behalf.

P. Because Article 370(2) states that, *"If the concurrence of the Government of the State referred to ... or in the second provision to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon."* The Constituent Assembly was thus given the ratifying power. This makes it clear that in the absence of a Constituent Assembly of the state of Jammu and Kashmir (since it was dissolved after the formation of the Constitution of J&K), "no such order which relates to matters other than those referred to, in the last preceding proviso shall be issued", since the "concurrence of that Government" cannot be placed before the Constituent Assembly to take a decision thereon.

Q. Because the Constitution-makers contemplated a transfer of power from the Maharaja of J&K to a duly elected state constituent assembly, and for this state constituent assembly to finally determine the constitutional relationship of J&K with the Indian Union, as emphasized by the Constitution Bench decision of the Supreme Court in *Premnath Kaul* (1959). Since the Constituent Assembly of Jammu and Kashmir was elected by an adult franchise it represented the aspirations of the people of the state.

R. Because, the Presidential Order states that it has been made with "the concurrence of the Government of the State of Jammu and Kashmir." However, as the State of Jammu and Kashmir has been under President's Rule since 19 December 2018, the consent, is his own, acting on the advice of the Union Cabinet. In a Presidential rule, the Governor is reduced to a mere delegate of the Centre and is expected to act as per the aid and advice of the Central Government. The same constitutional functionary is taking its own consent, to effect a fundamental structural change without consultation or concurrence of the persons affected by that change, or their elected representatives.

S. Because even if the Governor, acting without a popularly elected government can be considered as a "state government" for the purposes of concurrence, the Governor must at least have had some nexus with the State and some independence from the Centre. Though in the instant case since the Governor is not only an unelected nominee of the Central Government but also holds office during the latter's pleasure. A presidential order made through obtaining such a Governor's concurrence is tantamount to the Centre taking its own "consent" and making a mockery of Article 370. This, it is respectfully submitted, is contrary to the rule of law, and is manifestly arbitrary.

- T. It is respectfully submitted that in any event, "government" cannot be equated with "governor" in matters involving the fundamental and permanent restructuring of the state itself. This is because, as is well-established, President's Rule is a temporary and exceptional phenomenon, designed to address an emergent situation until such time that an elected government is restored to power. [S.R. Bommai v Union of India, (1994) 3 SCC 1.] President's rule is an exception to the general constitutional scheme that envisages representative government at the State level to accommodate regional aspirations.
- U. Because, it is respectfully submitted that in NCT of Delhi v Union of India [2018 8 SCC 501], a Constitution Bench of this Hon'ble Court made it clear that representative democracy is a basic feature of the Constitution, and that the Constitution should be interpreted to advance - and not retard - this principle. It is respectfully submitted that an interpretation of Article 370(1)(d) that would include "governor" within the meaning of "government" during the imposition of President's Rule would destroy the principle of representative government, for the reasons stated above.
- V. Because the power under Article 370(1)(d) does not extend to a blanket replacement of the Constitution of Jammu and Kashmir. The Constitution of India was made applicable to J&K through Article 370, which, *inter alia* provided in Article

370(1) that the President could apply other provisions of the Constitution to J&K in "consultation" with the J&K government, while such application in respect of other matters required the "concurrence" of the J&K government.

W. Because clause 2 of the Presidential Order, that seeks to extend "all the provisions of this Constitution, as amended from time to time", *ipso facto* and in perpetuity, is ultra vires and beyond the authority conferred by Article 370(1)(d) of the Constitution.

X. Because the debates in the Constituent Assembly explicitly indicate, that the purpose of this clause was to extend certain provisions of the Indian Constitution to the State of Jammu and Kashmir, from time to time, based upon the exigencies of the situation. There was no intention to apply the Indian Constitution in its entirety, through a single order, to the State of Jammu and Kashmir. Furthermore, to plunge people into dark and make a decision about their fate by making the Constitution of Jammu and Kashmir redundant through a legislative back-door is completely against all the principles of democracy and constitutional morality.

Y. Because C.O. 272 is invalid as the legislative assembly of the State of Jammu and Kashmir has no power under the Constitution of Jammu and Kashmir to bring about an amendment to any provision under the Constitution of India as is applicable to the state. Under the proviso to Article 147

of the Constitution of Jammu and Kashmir, the legislative assembly of the State of Jammu and Kashmir is barred from "seeking to make any change in the provisions of the constitution of India as applicable in relation to the State"; consequently, since the legislative assembly could not have given its consent to Presidential Order C.O. 272, nor could therefore the Governor. Therefore, Presidential Order C.O. 272 is then invalid and inoperative since it seeks to vest in the legislative assembly of the State of Jammu and Kashmir powers that it is expressly barred from exercising under the Constitution of Jammu and Kashmir.

Presidential Order G.S.R. 562(E) (C.O. 273) is constitutionally invalid.

Z. Because Presidential Order C.O. 273, under the authority of Article 370(3) abrogates all clauses of Article 370 (except for clause (1)) is constitutionally invalid. A presidential order under Article 370(3) of the Constitution of India requires the "Constituent Assembly of Jammu & Kashmir" to recommend a presidential notification under Article 370(3) declaring that Article 370 shall cease to be operative. It is respectfully submitted that the J&K Constituent Assembly no longer exists and thus could not have made a recommendation to that effect. Furthermore, no recommendation was made by any legislative body in J&K in exercise of its constituent power. Even otherwise, Article 370 ceased to have any effect.

AA. Because in *Sampath Prakash*, the court opined that the Article could only be removed on the recommendation of the Constituent Assembly of the State. Since, the said Assembly made no such recommendation before it ceased to exist post 1957, it shows that it had no intention to ask for revocation of the said Article. "Article 370(3) clearly envisages that the article will continue to be operative and can cease to be operative only if, on the recommendation of the Constituent Assembly of the State, the President makes a direction to that effect. In fact, no such recommendation was made by the Constituent Assembly of the State, nor was any Order made by the President declaring that the article shall cease to be operative. On the contrary, it appears that the Constituent Assembly of the State made a recommendation that the article should be operative with one modification to be incorporated in the Explanation to clause (1) of the Article. This makes it very clear that the Constituent Assembly of the State did not desire that this article should cease to be operative and, in fact, expressed its agreement to the continued operation of this article by making a recommendation that it should be operative with this modification only". By omission(not recommending the abrogation of Article 370), the Constituent Assembly of J&K made clear its intention to *not abrogate* Article 370.

BB. Because provisions of Article 370, in the instant case Article 370 (1)(d), cannot be used to de-operationalise Article 370

itself, by making drastic amendments and introducing definitions under Article 367 of the Constitution of India.

CC. Because the President does not have the power to change the provisions of the Constitution of India, as applied to Jammu and Kashmir, during President's rule under Article 356(1). The President can issue a proclamation under Article 356(1), as applied to the State of Jammu and Kashmir by the Constitution (Application to Jammu and Kashmir) Order 1954, if s/he is "satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution of the State of Jammu and Kashmir." The exercise of the power under Article 356 is limited by time as provided in Article 356 itself. It is a temporary arrangement only until the government of the state can be carried on in accordance with the Constitution. Therefore, by necessary inference, President's intervention under Article 356 must be to ensure that government in Jammu and Kashmir can be carried out in accordance with the provisions of the Constitution of Jammu and Kashmir, and towards restoring constitutional machinery in the State. As a corollary, the President ought not to amend the provisions of the Constitution of Jammu and Kashmir through the powers under Article 356(1) as applied to Jammu and Kashmir.

DD. Because the underlying understanding of the entire history and background make it clear that it is the Constitution of

J&K and the laws made by State Legislature which ought to determine the wishes and the aspirations of the people of J&K. The impugned provisions violate the Constitution of J&K as well as the Constitution of India, thus playing fraud on the Constitutional powers.

The Jammu and Kashmir (Reorganisation) Act, 2019 is constitutionally invalid

EE. Because to change the status of the State of Jammu and Kashmir into a Union Territory (with a legislature), the J&K (Reorganisation) Act is ultra vires Article 3 of the Constitution. Article 3 authorises the formation of new States, and the alteration of areas, boundaries or names of existing States, but it does not authorise the degradation of the status of an existing state into a union territory. The proviso to Article 3, however, provides that no Bill for such purpose will be introduced in Parliament unless the Bill has been referred by the President to the "state legislature for expressing its views" thereon when the proposal contained in the Bill affects the area, boundaries or name of that state. The only exception so far was J&K. Article 370 applied Article 1 to J&K thereby recognizing it as a constituent State within the Indian Union.

FF. The 1954 Presidential Order applied Article 3 to J&K with an additional proviso that mandated that 'no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State

shall be introduced in Parliament without the consent of the Legislature of that State.' In other words, not only did J&K not fully merge its territory into the Indian Union but it explicitly preserved its territorial integrity as also identity. Assuming the 2019 Order (which supersedes the 1954 Order and applies the entire Constitution to J&K) to be valid, Parliament may by law alter the areas, boundaries and name of J&K without the consent of the state legislature. However, it was still a requirement of the proviso to Article 3 for the 2019 Reorganization Bill to have been referred to the state legislature for expressing its views thereon. In the instant case, under the president's rule, the parliament cannot express the "views" of the legislative assembly. Therefore, views of the state legislature, as required under Article 3, have not been ascertained.

GG. While the Constitution is not strictly federal in nature, it is also not strictly unitary in nature – it is often described as quasi-federal. In fact, the state in relation to which the Constitution was closest to being federal was J&K, due to the historical reasons. The 13-Judge Bench decision in *Kesavananda Bharati* (1973) lead to the conclusion that federal character of the Constitution as part of its basic structure. Parliament, by exercising the power of the state legislature to bifurcate the State J&K into Union territories, has plainly violated the federal structure of the Constitution.

HH. Because in *R.C. Poudyal v Union of India*, [1994 Supp 1 SCC 324] it was held that federalism is a basic feature of the Indian Constitution. It stated that the model of federalism followed by our Nation is a pluralistic federation, where different constituent units of the federation can have a different relationship with the Union, based upon their terms of accession, historical, social, political, and cultural circumstances. Articles 371A to 371J, which provide a special status - in different respects - to the states of Nagaland, Mizoram, Manipur, Maharashtra, Karnataka, Sikkim, and others are a reflection of the same. It is respectfully submitted that the principle of pluralistic federalism would be set at naught if one of the two parties to the federal relationship (i.e., the Union) can unilaterally amend the terms of their relationship, without even passing through the rigours of the amending process under Article 368.

II. Because the right to autonomous self-government and the right to an identity within the federal framework are fundamental rights within the right to life and other provisions contained in Part III of the Constitution.

JJ. Because the impugned orders/acts are arbitrary and contrary to the basic structure principles of Rule of Law, Federalism, Democracy and the Separation of Powers, apart from violating fundamental rights of citizens of India.

KK. Because C.O. 272 and C.O. 273 are arbitrary and in violation of fundamental rights including Article 14 and 21 and further, are in violation of Constitutional morality.

LL. Because there has been a complete shutdown of communications, internet and news in the State of Jammu and Kashmir since almost a week before the impugned Presidential order of 05.08.2019 has been imposed. The people of Jammu and Kashmir were neither consulted before such a drastic change in their relationship with India was introduced nor were they informed about it since no telecommunication, publication and distribution is allowed in the State before and even after the impugned orders/Act have been introduced. The rule of law mandates legislative accountability. Excessive secrecy or open abuse of the public trust vested upon the elected representatives must be prohibited in a democratic state.

43. That the Petitioners have not filed any other petition in any High Court or the Supreme Court of India on the subject matter of the instant Petition.

PRAYER

The Petitioners, therefore, most respectfully pray that this Hon'ble Court may graciously be pleased to issue a Writ or an order or a declaration:

A. Declaring all the Presidential orders issued under Article 370 from 1957 till date, void since they could not have been ratified after the dissolution (in 1957) of the Constituent Assembly of Jammu and Kashmir as mandated under Article 370(2); and

In the alternative;

B. Declaring Presidential Order G.S.R. 551(E) (C.O. 272) unconstitutional, void, and inoperative; and

C. Declaring Presidential Order G.S.R. 562(E) (C.O. 273) unconstitutional, void, and inoperative; and

D. Declaring The Jammu and Kashmir (Reorganisation) Act of 2019 unconstitutional, void, and inoperative; and/or

E. Pass any other writ, order or direction as this Hon'ble Court deems fit in the interests of justice and in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL
AS IN DUTY BOUND EVER PRAY.

FILED BY

ABHIMANUE SHRESTHA
Advocate for the Petitioners

NEW DELHI
FILED ON: 03.10.2019

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. ____ OF 2019

IN THE MATTER OF:

People's Union for Civil Liberties & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

AFFIDAVIT

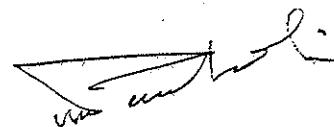
I, N.D.Pancholi s/o Late Shri Data Ram, [REDACTED]

[REDACTED] do hereby solemnly affirm and
declare as under:-

1. I am the National Vice-President of the Petitioner No. 1 in the above-mentioned Petition, as well as Petitioner No. 2, and as such well-acquainted with the facts of the case and as such, am fully competent and authorized to swear this affidavit.
2. I have read and understood the contents of the synopsis and list of dates at Pages B to X and the contents of the Writ Petition in paras No. 1 to 43 and I say that the contents thereof are true to my knowledge and belief. I have also read and understood the contents of the accompanying IAs and I say that the contents thereof are true and correct to the best of my knowledge and belief.
3. That the Petitioners do not have any personal stake in the matter. The Petitioners are not involved in any civil, criminal or revenue litigation which may have any legal nexus with the issues involved in the public

interest litigation. The Petitioners have not approached any authority seeking similar relief as prayed in the present petition.

4. I say that the annexures filed along with Petition are true and correct copies of their respective originals.

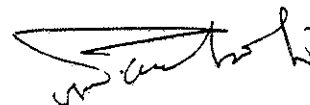


DEPONENT

People's Union for Civil Liberties (PUCL)
332, G.F., Patpar Ganj, Opp. Anand Lok-
Apartments (Gate No. 2), Mayur Vihar-I,
Delhi-110 091, (Ph. 011-22750014)

VERIFICATION

Verified at New Delhi on this 01 day of October, 2019 that the contents of paragraph 1 to 4 of my above affidavit are true to my knowledge and belief, and nothing false has been stated therein nor any material has been concealed thereof.



DEPONENT

People's Union for Civil Liberties (PUCL)
332, G.F., Patpar Ganj, Opp. Anand Lok-
Apartments (Gate No. 2), Mayur Vihar-I,
Delhi-110 091, (Ph. 011-22750014)

ANNEXURE - P1



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 444]

नई दिल्ली, सोमवार, अगस्त 5, 2019/श्रावण 14, 1941

No. 444]

NEW DELHI, MONDAY, AUGUST 5, 2019/SHRAVANA 14, 1941

विधि एवं न्याय मंत्रालय

(विधायी विभाग)

अधिसूचना

नई दिल्ली, 5 अगस्त, 2019

सा. का. नि. 551(अ).—राष्ट्रपति द्वारा किया गया निम्नलिखित आदेश सर्वसाधारण की सूचनार्थ प्रकाशित किया जाता है:—

संविधान (जम्मू और कश्मीर में लागू) आदेश, 2019

सी. ओ. 272

संविधान के अनुच्छेद 370 के खंड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रपति, जम्मू और कश्मीर राज्य सरकार की सहमति से निम्नलिखित आदेश करते हैं:—

1. (1) इस आदेश का नाम संविधान (जम्मू और कश्मीर पर लागू) आदेश, 2019 है।

(2) यह तुरन्त प्रवृत्त होगा और इसके बाद यह समय-समय पर यथा संशोधित संविधान (जम्मू और कश्मीर पर लागू) आदेश, 1954 का अधिक्रमण करेगा।

2. समय-समय पर यथा संशोधित संविधान के सभी उपबंध जम्मू और कश्मीर राज्य के संबंध में लागू होंगे और जिन अपवादों और आशोधनों के अधीन ये लागू होंगे वे निम्न प्रकार होंगे:—

अनुच्छेद 367 में निम्नलिखित खंड जोड़ा जाएगा, अर्थात्:—

“(4) संविधान, जहां तक यह जम्मू और कश्मीर के संबंध में लागू है, के प्रयोजनों के लिए—

(क) इस संविधान या इसके उपबंधों के निर्देशों को, उक्त राज्य के संबंध में यथा लागू संविधान और उसके उपबंधों का निर्देश माना जाएगा;

(ख) जिस व्यक्ति को राज्य की विधान सभा की सिफारिश पर राष्ट्रपति द्वारा जम्मू एवं कश्मीर के सदर-ए-रियासत, जो तत्स्थानिक रूप से पदासीन राज्य की मंत्रि परिषद की सलाह पर कार्य कर रहे हैं, के रूप में तत्स्थानिक रूप से मान्यता दी गई है, उनके लिए निर्देशों को जम्मू एवं कश्मीर के राज्यपाल के लिए निर्देश माना जाएगा।

(ग) उक्त राज्य की सरकार के निर्देशों को, उनकी मंत्रिपरिषद की सलाह पर कार्य कर रहे जम्मू एवं कश्मीर के राज्यपाल के लिए निर्देशों को शामिल करता हुआ माना जाएगा; तथा

(घ) इस संविधान के अनुच्छेद 370 के परंतुक में “खंड (2) में उल्लिखित राज्य को संविधान सभा” अभिव्यक्ति को “राज्य की विधान सभा” पढ़ा जाएगा।”

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राम नाथ कोविंद,
राष्ट्रपति।

[फा.सं. 19(2)/2019-विधायी 1]

डॉ. जी. नारायण राजू, सचिव

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

NOTIFICATION

New Delhi, the 5th August, 2019

G.S.R. 551(E).— the following Order made by the President is published for general information:—

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019

C.O. 272

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(2) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

2. All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(d) in proviso to clause (3) of article 370 of this Constitution, the expression “Constituent Assembly of the State referred to in clause (2)” shall read “Legislative Assembly of the State”.”

RAM NATH KOVIND,

President.

[F. No. 19(2)/2019-Leg.1]

Dr. G. NARAYANA RAJU, Secy.

ALOK

KUMAR

Digitally signed
by ALOK KUMAR
Date: 2019.08.05
11:00:09 +05'30'



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (I)

PART II—Section 3—Sub-section (I)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 453]

नई दिल्ली, मंगलवार, अगस्त 6, 2019/श्रावण 15, 1941

No. 453]

NEW DELHI, TUESDAY, AUGUST 6, 2019/SHRAVANA 15, 1941

विधि और न्याय मंत्रालय

(विधायी विभाग)

अधिसूचना

नई दिल्ली, 6 अगस्त, 2019

सा.का.नि. 562(अ).—राष्ट्रपति द्वारा की गई निम्नलिखित घोषणा सर्वसाधारण की जानकारी के लिए अधिसूचित की जाती है :—

संविधान के अनुच्छेद 370(3) के अधीन घोषणा

“सं. आ. 273”

राष्ट्रपति, संसद की सिफारिश पर भारत के संविधान के अनुच्छेद 370 के खंड (1) के साथ पठित अनुच्छेद 370 के खंड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करते हैं कि 6 अगस्त, 2019 से उक्त अनुच्छेद 370 के सभी खंड, सिवाय निम्नलिखित के, जो नीचे दिए गए के अनुसार हैं, प्रचालन में नहीं रहेंगे, अर्थात् :—

“370. इस संविधान के समय-समय पर यथा-संशोधित, सभी उपबंध बिना किन्हीं उपांतरणों या अपवादों के अनुच्छेद 152 या अनुच्छेद 308 या इस संविधान के किसी अन्य अनुच्छेद या जम्मू-कश्मीर के संविधान में किसी अन्य उपबंध या किसी विधि, दस्तावेज, निर्णय, अध्यादेश, आदेश, उपविधि, नियम, विनियम, अधिसूचना या भारत के राज्यक्षेत्र में विधि का बल रखने वाली किसी रूढ़ि या प्रथा या किसी अन्य लिखित, संधि या करार जो अनुच्छेद 363 के अधीन यथा परिकल्पित या अन्यथा है, में तत्कालिक किसी बात के अंतर्विष्ट होते हुए भी, जम्मू-कश्मीर राज्य को लागू होंगे।”

राम नाथ कोविंद,

राष्ट्रपति।

[फा. सं. 19(3)/2019-वि. 1]

डॉ. जी. नारायण राजू, सचिव

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

NOTIFICATION

New Delhi, the 6th August, 2019

60

G.S.R. 562(E).— The following Declaration made by the President is notified for general information:—

DECLARATION UNDER ARTICLE 370(3) OF THE CONSTITUTION

"C.O. 273"

In exercise of the powers conferred by clause (3) of article 370 read with clause (1) of article 370 of the Constitution of India, the President, on the recommendation of Parliament, is pleased to declare that, as from the 6th August, 2019, all clauses of the said article 370 shall cease to be operative except the following which shall read as under, namely :—

"370. All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in article 152 or article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgement, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under article 363 or otherwise."

RAM NATH KOVIND,

President.

[F. No. 19(3)/2019-Leg. 1]

Dr. G. NARAYANA RAJU, Secy.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 53]

नई दिल्ली, शुक्रवार, अगस्त 9, 2019/श्रावण 18, 1941 (सक)

No. 53]

NEW DELHI, FRIDAY, AUGUST 9, 2019/SHRAVANA 18, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 9th August, 2019/Shravana 18, 1941 (Saka)

The following Act of Parliament received the assent of the President on the 9th August, 2019, and is hereby published for general information:—

THE JAMMU AND KASHMIR REORGANISATION ACT, 2019

No. 34 OF 2019

[9th August, 2019.]

An Act to provide for the reorganisation of the existing State of Jammu and Kashmir and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

PART-I

PRELIMINARY

1. This Act may be called the Jammu and Kashmir Reorganisation Act, 2019.
2. In this Act, unless the context otherwise requires,—
 - (a) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;
 - (b) "article" means an article of the Constitution;
 - (c) "assembly constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950 (43 of 1950);
 - (d) "Election Commission" means the Election Commission appointed by the President under article 324;
 - (e) "existing State of Jammu and Kashmir" means the State of Jammu and Kashmir as existing immediately before the appointed day, comprising the territory which

Short title.

Definitions.

immediately before the commencement of the Constitution of India in the Indian State of Jammu and Kashmir;

(f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Jammu and Kashmir;

(g) "Legislative Assembly" means Legislative Assembly of Union territory of Jammu and Kashmir;

(h) "Lieutenant Governor" means the Administrator of the Union territory appointed by the President under article 239;

(i) "notified order" means an order published in the Official Gazette;

(j) "population ratio", in relation to the Union territory of Jammu and Kashmir, and Union territory of Ladakh means the ratio as per 2011 Census;

(k) "Scheduled Castes" in relation to the Union territory means such castes, races or tribes or parts of groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes in relation to that Union territory;

(l) "Scheduled Tribes" in relation to the Union territory means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes in relation to that Union territory;

(m) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Jammu and Kashmir, means a person who immediately before the appointed day, is a member of that House;

(n) "Union territory", in relation to the existing State of Jammu and Kashmir, means the Union territory of Jammu and Kashmir or Union territory of Ladakh, as the case may be;

(o) "transferred territory" means the territory which on the appointed day is transferred from the existing State of Jammu and Kashmir to Union territories formed under sections 3 and 4 of this Act; and

(p) any reference to a district, tehsil or other territorial division of the existing State of Jammu and Kashmir shall be construed as a reference to the area comprised within that territorial division on the appointed day.

PART II

REORGANISATION OF THE STATE OF JAMMU AND KASHMIR

Formation of
Union
territory of
Ladakh
without
Legislature.

3. On and from the appointed day, there shall be formed a new Union territory to be known as the Union territory of Ladakh comprising the following territories of the existing State of Jammu and Kashmir, namely:—

"Kargil and Leh districts",

and thereupon the said territories shall cease to form part of the existing State of Jammu and Kashmir.

Formation of
Union territory
of Jammu and
Kashmir with
Legislature.

4. On and from the appointed day, there shall be formed a new Union territory to be known as the Union territory of Jammu and Kashmir comprising the territories of the existing State of Jammu and Kashmir other than those specified in section 3.

Governor of
existing State
of Jammu and
Kashmir to be
common
Lieutenant
Governor.

5. On and from the appointed day, the Governor of the existing State of Jammu and Kashmir shall be the Lieutenant Governor for the Union territory of Jammu and Kashmir, and Union territory of Ladakh for such period as may be determined by the President.

6. On and from the appointed day, in the First Schedule to the Constitution, under the heading—"I. THE STATES",—

(a) entry 15 shall be deleted.

(b) entries from 16 to 29 shall be renumbered as 15 to 28.

(c) under the heading—"II. UNION TERRITORIES",—

after entry 7, the following entries shall be inserted, namely:—

"8. Jammu and Kashmir: The territories specified in section 4 of the Jammu and Kashmir Reorganization Act, 2019".

"9. Ladakh: The territories specified in section 3 of the Jammu and Kashmir Reorganization Act, 2019".

7. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of successor Union territory of Jammu and Kashmir to alter, after the appointed day, the name, area or boundaries of any district or other territorial division in that Union territory.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

8. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(a) entry 21 shall be deleted;

(b) entries 22 to 31 shall be renumbered as entries 21 to 30, respectively;

(c) after entry 30, the following entry shall be inserted, namely:—

"31. Jammu and Kashmir4"

9. (1) On and from the appointed day, four sitting members of the Council of States representing the existing State of Jammu and Kashmir shall be deemed to have been elected to fill the seats allotted to the Union territory of Jammu and Kashmir, as specified in the First Schedule to this Act.

(2) The term of office of such sitting members shall remain unaltered.

The House of the People

10. On and from the appointed day, there shall be allocated five seats to the successor Union territory of Jammu and Kashmir and one seat to Union territory of Ladakh, in the House of the People, and the First Schedule to the Representation of the People Act, 1950 (43 of 1950) shall be deemed to be amended accordingly.

43 of 1950.

Delimitation of Parliamentary Constituencies Order 1976.

11. (1) On and from the appointed day, the Delimitation of Parliamentary Constituencies Order, 1976 shall stand amended as directed in the Second Schedule of this Act.

(2) The Election Commission may conduct the elections to the House of the People for the Union territory of Jammu and Kashmir and Union territory of Ladakh as per the allocation of seats specified in the Delimitation of Parliamentary Constituencies Order, 1976 as amended by this Act.

12. (1) Every sitting member of the House of the People representing a constituency which, on the appointed day by virtue of the provisions of section 10, stands allotted, with or without alteration of boundaries, to the successor Union territory of Jammu and Kashmir or Union territory of Ladakh, as the case may be, shall be deemed to have been elected to the House of the People by that constituency as so allotted.

(2) The term of office of such sitting members shall remain unaltered.

The Lieutenant Governor and The Legislative Assembly of Union territory of Jammu and Kashmir

Applicability of article 239A of Constitution.

13. On and from the appointed day, the provisions contained in article 239A, which are applicable to "Union territory of Puducherry", shall also apply to the "Union territory of Jammu and Kashmir".

Legislative Assembly for the Union Territory of Jammu and Kashmir and its composition.

14. (1) There shall be an Administrator appointed under article 239 of the Constitution of India for the Union territory of Jammu and Kashmir and shall be designated as Lieutenant Governor of the said Union territory.

(2) There shall be a Legislative Assembly for the Union territory of Jammu and Kashmir.

(3) The total number of seats in the Legislative Assembly of the Union territory of Jammu and Kashmir to be filled by persons chosen by direct election shall be 107.

(4) Notwithstanding anything contained in sub-section (3), until the area of the Union territory of Jammu and Kashmir under the occupation of Pakistan ceases to be so occupied and the people residing in that area elect their representatives—

(a) twenty four seats in the Legislative Assembly of Union territory of Jammu and Kashmir shall remain vacant and shall not be taken into account for reckoning the total membership of the Assembly; and

(b) the said area and seats shall be excluded in delimiting the territorial constituencies as provided under PART V of this Act.

(5) On and from the appointed day, the Delimitation of Assembly Constituencies Order, 1995, as applicable to Union territory of Jammu and Kashmir, shall stand amended as directed in the Third Schedule of this act.

(6) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assembly of the Union territory of Jammu and Kashmir.

(7) The number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assembly of the Union territory of Jammu and Kashmir under sub-section (6) 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 Union territory of Jammu and Kashmir or of the Scheduled Tribes in the Union territory of Jammu and Kashmir, in respect of which seats are so reserved, bears to the total population of the Union territory of Jammu and Kashmir.

Explanation: In this sub-section, 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 2026 have been published, be construed as a reference to the 2011 census.

(8) Notwithstanding anything in sub-section (6), the reservation of seats for the Scheduled Castes or Scheduled Tribes in the Legislative Assembly of the Union territory of Jammu and Kashmir shall cease to have effect on the same date on which the reservation of seats for the Scheduled Castes or the Scheduled Tribes in the House of the People shall cease to have effect under article 334 of the Constitution of India:

(9) In the Second Schedule to the Representation of the People Act, 1950, under the heading:—"I. THE STATES:" 43 of 1950.

"(a) entry 10 shall be deleted".

"(b) entries 11 to 29 shall be renumbered as 10 to 28".

43 of 1950.

(10) In the Second Schedule to the Representation of the People Act, 1950, under the heading :—"II. Union Territories"

(a) after entry 4, the following entries shall be inserted, namely:—

1	2	3	4	5	6	7
"5. Jammu and Kashmir	83	6	83	6"

(11) The provisions of articles 324 to 327 and 329 of the Constitution of India, shall apply in relation to the Union territory of Jammu and Kashmir, the Legislative Assembly and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to "appropriate Legislature" shall be deemed to be a reference to Parliament.

15. Notwithstanding anything in sub-section (3) of section 14 the Lieutenant Governor of the successor Union territory of Jammu and Kashmir may nominate two members to the Legislative Assembly to give representation to women, if in his opinion, women are not adequately represented in the Legislative Assembly.

Representation of women

16. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

Qualification for membership of Legislative Assembly.

(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 Fourth Schedule of this Act;

(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 made by the Parliament.

17. The Legislative Assembly, 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 Legislative Assembly:

Duration of Legislative 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.

18. (1) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly 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.

Sessions of Legislative Assembly, prorogation and dissolution.

(2) The Lieutenant Governor may, from time to time,—

(a) prorogue the House;

(b) dissolve the Legislative Assembly;

19. (1) Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Speaker and Deputy Speaker of Legislative Assembly.

(2) A member holding office as Speaker or Deputy Speaker of the Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly:

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office;

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Legislative Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Legislative Assembly, the Deputy Speaker, or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Legislative Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, such salaries and allowances as may respectively be fixed by the Legislative Assembly of the Union territory of Jammu and Kashmir by law and, until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, by order determine.

Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

20. (1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker, from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of sub-section (4) of section 19 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 25, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Special address by Lieutenant Governor to Legislative Assembly.

21. (1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly, and shall inform the Legislative Assembly of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the Legislative Assembly for the allotment of time for the discussion of matters referred to in such address.

Rights of Ministers and Advocate General as respects Legislative Assembly.

22. Every Minister and the Advocate-General for the Union territory of Jammu and Kashmir shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not by virtue of this section be entitled to vote.

Rights of Lieutenant Governor to address and send messages to the Legislative Assembly.

23. (1) The Lieutenant Governor may address the Legislative Assembly and may for that purpose require the attendance of members.

(2) The Lieutenant Governor may also send messages to the Legislative Assembly whether with respect to a Bill then pending in the Legislative Assembly or otherwise, and when a message so sent, the Legislative Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

24. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor of the said Union territory, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Fourth Schedule of this Act.

Oath or affirmation by members.

25. (1) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as such.

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

(2) The Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Legislative Assembly shall be ten members or one-tenth of the total number of members of the Legislative Assembly, which ever is greater.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Legislative Assembly or to suspend the meeting until there is a quorum.

26. (1) No person shall be a member both of Parliament and of the Legislative Assembly, 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 said Union territory.

Vacation of seats.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any of disqualification mentioned in section 27 or section 28 for membership of the Legislative Assembly; or

(b) resigns his seat by writing under his hand addressed to the Speaker, and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of the Legislative Assembly 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.

27. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

Disqualifications for membership.

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of Union territory of Jammu and Kashmir or the Government or administration of any other Union territory or other than an office declared by law made by Parliament or by the Legislative Assembly 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

Union Territory of Jammu and Kashmir or the Government of any other 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 becomes subject to any of disqualification under the provisions of sub-sections (1) and (2), the question shall be referred for the decision of the Lieutenant Governor and his decision shall be final.

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

Disqualification
on ground of
defection for
being a
member.

28. 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 Union territory of Jammu and Kashmir, as the case may be, section 24, section 30 and section 50 of this Act), apply to and in relation to the members of the Legislative Assembly of Union territory of Jammu and Kashmir 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 if he is so disqualified under the said Tenth Schedule as so modified.

Penalty for
sitting and
voting before
making oath
or affirmation
or when not
qualified or
when
disqualified.

29. If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of section 24 or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from doing so by the provisions of any law made by Parliament or the Legislative Assembly of the Union territory of Jammu and Kashmir, 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 said Union territory.

Powers,
privileges,
etc., of
members.

30. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply in relation to members of the Legislative Assembly.

Salaries and
allowances of
members.

31. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislative Assembly by law and, until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, by order determine.

Extent of
legislative
power.

32. (1) Subject to the provisions of this Act, the Legislative Assembly may make laws for the whole or any part of the Union territory of Jammu and Kashmir with respect to any of the matters enumerated in the State List except the subjects mentioned at entries 1 and 2, namely "Public Order" and "Police" respectively or the Concurrent List in the Seventh

Schedule to the Constitution of India in so far as any such matter is applicable in relation to the Union territories.

(2) Nothing in sub-section (1) shall derogate from the powers conferred on Parliament by the Constitution to make laws with respect to any matter for the Union territory of Jammu and Kashmir or any part thereof.

33. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by or under any other law in force in the Union territory of Jammu and Kashmir:

Exemption of property of the Union from taxation.

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory of Jammu and Kashmir from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as that tax continues to be levied in that Union territory.

34. (1) The provisions of article 286, article 287 and article 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Restrictions on laws passed by Legislative Assembly with respect to matters.

(2) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

35. If any provision of a law made by the Legislative Assembly with respect to matters enumerated in the State List, in the Seventh Schedule to the Constitution is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly; or, if any provision of a law made by the Legislative Assembly with respect to any matter enumerated in the Concurrent List in the Seventh Schedule to the Constitution is repugnant to any provision of any earlier law, other than a law made by the Legislative Assembly, with respect to that matter, then, in either case, the law made by Parliament, or, as the case may be, such earlier law shall prevail and the law made by the Legislative Assembly of the Union territory shall, to the extent of the repugnancy, be void:

Inconsistency between laws made by Parliament and laws made by Legislative Assembly.

Provided that if such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the Union territory of Jammu & Kashmir:

Provided further that nothing in this section shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

36. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor, if such Bill or Amendment makes provision for any of the following matters, namely:—

Special provisions as to financial Bills.

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

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;

(e) the receipt of money on account of the Consolidated Fund of the Union territory or the public account of the Union territory or the custody or issue of such money or the audit of the account of the Union territory;

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

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

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of Union territory shall not be passed by the Legislative Assembly of the Union territory unless the Lieutenant Governor has recommended to the Assembly, the consideration of the Bill.

Procedure as to lapsing of Bills.

37. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Legislative Assembly.

(2) A Bill which is pending in the Legislative Assembly shall lapse on dissolution of the Legislative Assembly.

Assent to Bills.

38. When a Bill has been passed by the Legislative Assembly, it shall be presented to the Lieutenant Governor and the Lieutenant Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill to him for assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, the Lieutenant Governor shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which.—

(a) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(b) relates to any of the matters specified in clause (1) of article 31A; or

(c) the President may, by order, direct to be reserved for his consideration.

Explanation.—For the purposes of this section and section 39, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 36 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Bills reserved for consideration.

39. When a Bill is reserved by Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a Money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 38 and, when a Bill is so

returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment, it shall be presented again to the President for his consideration.

40. No Act of the Legislative Assembly and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor, or, on being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Requirements
in this section,
and
recommendations
to be regarded
as matters of
procedure
only.

41. (1) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly of the Union territory of Jammu and Kashmir, a statement of the estimated receipts and expenditure of the Union territory for that year, in this Part referred to as the "annual financial statement".

Annual
financial
statement.

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

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory of Jammu and Kashmir, and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory of Jammu and Kashmir; and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory of Jammu and Kashmir:—

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

(b) the charges payable in respect of loans advanced to the Union territory of Jammu and Kashmir from the Consolidated Fund of India including interest, sinking fund charges and redemption charges, and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) expenditure in respect of the salaries and allowances of Judges of High Court of Jammu and Kashmir;

(e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(f) expenditure incurred by the Lieutenant Governor in the discharge of his special responsibility;

(g) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly of the Union territory of Jammu and Kashmir to be so charged.

42. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of Union territory of Jammu and Kashmir shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

Procedure in
Legislative
Assembly with
respect to
estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation
Bills.

43. (1) As soon as may be after the grants under section 42 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(a) the grants so made by the Legislative Assembly, and

(b) the expenditure charged on the Consolidated Fund of the Union territory of Jammu and Kashmir but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory of Jammu and Kashmir and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with the provisions of this section.

Supplementary,
additional or
excess grants.

44. (1) The Lieutenant Governor shall—

(a) if the amount authorised by any law made in accordance with the provisions of section 43 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Legislative Assembly, another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous approval a demand for such excess, as the case may be.

(2) The provisions of sections 41, 42 and 43 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the Union territory of Jammu and Kashmir to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory of Jammu and Kashmir to meet such expenditure or grant.

Votes on
account.

45. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 42 for the voting of such grant and the passing of the law in accordance with the provisions of section 43 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory of Jammu and Kashmir for the purposes for which the said grant is made.

(2) The provisions of sections 42 and 43 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory of Jammu and Kashmir to meet such expenditure.

46. (1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Rules of procedure.

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory of Jammu and Kashmir;

(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by this Act to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders in force immediately before the commencement of this Act, with respect to the Legislative Assembly of the existing State of Jammu and Kashmir shall have effect in relation to the Legislative Assembly of the Union territory of Jammu and Kashmir subject to such modifications and adaptations as may be made therein by the Speaker of Legislative Assembly.

47. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory of Jammu and Kashmir or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory of Jammu and Kashmir.

Official language or languages of Union territory of Jammu and Kashmir and language or languages to be used in Legislative Assembly thereof.

(2) The business in the Legislative Assembly of the Union territory of Jammu and Kashmir shall be transacted in the official language or languages of the Union territory of Jammu and Kashmir or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the Legislative Assembly in his mother-tongue.

48. Notwithstanding anything contained in section 47, until Parliament by law otherwise provides, the authoritative texts—

Language to be used for Acts, Bills, etc.

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly,

(b) of all Acts passed by the Legislative Assembly, and

(c) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly of,

shall be in the English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly of the Union territory of Jammu and Kashmir, a translation of the same in the English language published under the authority of the Lieutenant Governor in the Official Gazette shall be deemed to be the authoritative text thereof in the English language.

49. No discussion shall take place in the Legislative Assembly with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.

Restriction on discussion in the Legislative Assembly.

Courts not to inquire into proceedings of Legislative Assembly.

50. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Secretariat of the Legislative Assembly.

51. (1) Legislative Assembly shall have a separate secretariat staff.

(2) The Legislative Assembly may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly.

(3) Until provision is made by the Legislative Assembly under sub-section (2), the Lieutenant Governor may, after consultation with the Speaker of the Legislative Assembly make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly and any rules so made shall have effect subject to the provisions of any law made under the said sub-section.

Power of Lieutenant Governor to promulgate Ordinances during recess of Legislative Assembly.

52. (1) If at any time, except when the Legislative Assembly is in session, the Lieutenant Governor thereof is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the power of making an Ordinance under this section shall extend only to those matters with respect to which the Legislative Assembly has power to make laws.

(2) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Legislative Assembly assented by the Lieutenant Governor but every such Ordinance—

(a) Shall be laid before the Legislative Assembly and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislative Assembly, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly; and

(b) May be withdrawn at any time by the Lieutenant Governor.

Council of Ministers for the Union territory of Jammu and Kashmir

Council of Ministers.

53. (1) There shall be a Council of Ministers consisting of not more than ten percent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws except in so far as he is required by or under this Act to act in his discretion or by or under any law to exercise any judicial or quasi-judicial functions.

(2) The Lieutenant Governor shall, in the exercise of his functions, act in his discretion in a matter:

(i) which falls outside the purview of the powers conferred on the Legislative Assembly; or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial functions.

(iii) related to All India Services and Anti Corruption Bureau:

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

(3) The question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

54. (1) The Chief Minister shall be appointed by the Lieutenant Governor and the other Ministers shall be appointed by the Lieutenant Governor on the advice of the Chief Minister.

Other provisions as to Ministers.

(2) The Ministers shall hold office during the pleasure of the Lieutenant Governor.

(3) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(4) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Fourth Schedule.

(5) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine, and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor.

55. (1) The Lieutenant Governor shall make rules on the advice of the Council of Ministers—

Conduct of business.

(a) for the allocation of business to the Ministers; and

(b) for the more convenient transaction of business with the Ministers including the procedure to be adopted in case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive action of the Lieutenant Governor, whether taken on the advice of his Ministers or otherwise, shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor, shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor on the advice of council of ministers, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

56. It shall be the duty of the Chief Minister—

(a) to communicate to the Lieutenant Governor all decisions of the Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for.

Duties of Chief Minister as respects the furnishing of information to the Lieutenant Governor, etc.

Legislative Council

57. (1) Notwithstanding anything to the contrary contained in any law, document, judgment, ordinance, rule, regulation or notification, on and from the appointed day, the Legislative Council of the existing State of Jammu and Kashmir shall stand abolished.

(2) On the abolition of the Legislative Council, every member thereof shall ceased to be such member.

(3) All Bills pending in the Legislative Council immediately before the appointed day shall lapse on the abolition of the Council.

Abolition of Legislative Council of the State of Jammu and Kashmir

PART IV

ADMINISTRATION OF UNION TERRITORY OF LADAKH

Appointment
of Lieutenant
Governor of
Union
territory of
Ladakh.

58. (1) The Union territory of Ladakh will be administered by the President acting, to such extent as he thinks fit, through a Lieutenant Governor to be appointed by him under article 239.

(2) The President may make regulations for the peace, progress and good government of the Union territory of Ladakh under article 240 of the Constitution of India.

(3) Any regulation so made may repeal or amend any Act made by Parliament or any other law which is for the time being applicable to the Union territory of Ladakh and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to the Union territory of Ladakh.

(4) The Lieutenant Governor shall be assisted by advisor(s) to be appointed by the Central Government.

PART V

DELIMITATION OF CONSTITUENCIES

Definitions.

59. In this Part, unless the context otherwise requires,—

(a) "associate member" means a member associated with the Delimitation Commission under section 60;

(b) "Delimitation Commission" means the Delimitation Commission to be constituted under section 3 of the Delimitation Act, 2002; and thereafter by any law made by the Parliament.

33 of 2002.

(c) "Election Commission" means the Election Commission appointed by the President under article 324 of the Constitution of India;

(d) "latest census figures" mean the census figures ascertained at the latest census of which the finally published figures are available;

(e) "Parliamentary Constituency" means a constituency provided by law for the purpose of elections to the House of the People from Union territory of Jammu and Kashmir and Union territory of Ladakh.

(f) "Assembly Constituency" means a constituency provided by law for the purpose of elections to the Legislative Assembly.

Delimitation
of
constituencies.

60. (1) Without prejudice to sub-sections (3) of section 14 of this Act, the number of seats in the Legislative Assembly of Union territory of Jammu and Kashmir shall be increased from 107 to 114, and delimitation of the constituencies may be determined by the Election Commission in the manner hereinafter provided—

(a) the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assembly, having regard to the relevant provisions of the Constitution;

(b) the assembly constituencies into which the Union territory shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes; and

(c) the adjustments in the boundaries and description of the extent of the parliamentary constituencies in each Union territory that may be necessary or expedient.

(2) In determining the matters referred to in clauses (b) and (c) of sub-section (1), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing

... boundaries of administrative units, facilities of communication and conveniences to the public; and

(c) constituencies in which seats are reserved for the Scheduled Castes and the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

(3) The Election Commission shall, for the purpose of assisting it in the performance of its functions under sub-section (1), associate with itself as associate members, four persons as the Central Government may by order specify, being persons who are the members of the Legislative Assembly of the Union territory of Jammu and Kashmir or four members of the House of the People representing the Union territory of Jammu and Kashmir:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(4) If, owing to death or resignation, the office of an associate member falls vacant, it shall be filled as far as practicable, in accordance with the provisions of sub-section (3).

(5) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified; and

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette, and there upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(6) As soon as may be after such publication, every such order relating to assembly constituencies shall be laid before the Legislative Assembly of the Union territory of Jammu and Kashmir.

61. (1) The Election Commission may by notification in the Official Gazette.—

(a) correct any printing mistakes in any order made under section 60 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order or orders is or are altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section relating to an assembly constituency shall be laid, as soon as may be after it is issued, before the Legislative Assembly.

62. (1) On and from the appointed day, notwithstanding the publication of orders under sub-section (1) of section 10 of the Delimitation Act, 2002 or anything contained in sub-section (2) or sub-section (4) of the said section, the Delimitation Act, 2002 shall be deemed to have been amended as provided below:

(a) in section 2(f), the words "but does not include the State of Jammu and Kashmir" shall be omitted; and

(b) for the purpose of delimitation of Assembly and Parliamentary Constituencies, the words and figure "census held in the year 2001", wherever occurring, shall be construed as words and figure "census held in the year 2011".

Power of
Election
Commission
to maintain
Delimitation
Orders up-to-
date.

Special
provision as
to
readjustment
of
Parliamentary
and Assembly
Constituencies
on the basis of
2011 census.

(2) Readjustment of the constituencies as provided under section 60 in the successor Union territory of Jammu and Kashmir into Assembly Constituencies, shall be carried by the Delimitation Commission, to be constituted under the Delimitation Act, 2002 as amended by this Act, and shall take effect from such date as the Central Government may, by order, published in the Official Gazette, specify.

(3) Readjustment of the constituencies as provided under section 11 in the successor Union territory of Jammu and Kashmir into Parliamentary Constituencies, shall be carried by the Delimitation Commission, to be constituted under the Delimitation Act, 2002 as amended by this Act, and shall take effect from such date as the Central Government may, by order, published in the Official Gazette, specify.

Special provisions as to readjustment of Assembly and Parliamentary Constituencies.

63. Notwithstanding anything contained in sections 59 to 61, until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust the division of successor Union territory of Jammu and Kashmir into Assembly and Parliamentary Constituencies and any reference to the "latest census figures" in this Part shall be construed as a reference to the 2011 census figures.

Procedure as to delimitation.

64. The procedure as provided in the law made by Parliament, shall apply, in relation to the delimitation of Parliamentary and Assembly constituencies under this Part as they apply in relation to the delimitation of Parliamentary and Assembly constituencies under that law.

PART VI

SCHEDULED CASTES AND SCHEDULED TRIBES

Applicability of Scheduled Castes Order.

65. On and from the appointed day, the Constitution Jammu and Kashmir (Scheduled Castes) Order, 1956, shall stand applied to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

Jammu and Kashmir (Scheduled Castes) Order, 1956.

Applicability of Scheduled Tribes Order.

66. On and from the appointed day, the Constitution Jammu and Kashmir (Scheduled Tribes) Order, 1989, shall stand applied to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

Jammu and Kashmir (Scheduled Tribes) Order, 1989.

PART VII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated Fund of the Union territory of Jammu and Kashmir.

67. (1) On and from the appointed day, all revenues received in the Union territory of Jammu and Kashmir by the Government of India or the Lieutenant Governor of the Union territory of Jammu and Kashmir in relation to any matter with respect to which the Legislative Assembly of the Union territory of Jammu and Kashmir has power to make laws, and all grants made and all loans advanced to the Union territory of Jammu and Kashmir from the Consolidated Fund of India and all loans raised by the Government of India or the Lieutenant Governor of the Union territory of Jammu and Kashmir upon the security of the Consolidated Fund of the Union territory of Jammu and Kashmir and all moneys received by the Union territory of Jammu and Kashmir in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Jammu and Kashmir".

(2) No moneys out of such Consolidated Fund shall be appropriated except in accordance with, and for the purposes and in the manner provided in, this Act.

(3) The custody of such Consolidated Fund, the payment of moneys into such Funds, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor.

Public Account of the Union territory of Jammu and Kashmir and moneys credited to it.

68. (1) On and from the appointed day, all other public moneys received by or on behalf of the Lieutenant Governor shall be credited to a Public Account entitled "the Public Account of the Union territory of Jammu and Kashmir".

(2) The custody of public moneys, other than those credited to the Consolidated Fund of the Union territory or the Contingency Fund of the Union territory of Jammu and Kashmir, received by or on behalf of the Lieutenant Governor, their payment into the Public

Accounts of the Union territory of Jammu and Kashmir and the withdrawal of moneys from such account and all other matters connected with or ancillary to the aforesaid matters shall be regulated by rules made by the Lieutenant Governor on the advice of Council of Ministers.

69. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Jammu and Kashmir", into which shall be paid from and out of the Consolidated Fund of the Union territory of Jammu and Kashmir such sums as may, from time to time, be determined by law made by the Legislative Assembly of the Union territory of Jammu and Kashmir; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

Contingency
Fund of Union
territory of
Jammu and
Kashmir

(2) No advances shall be made out of the Contingency Fund of the Union territory of Jammu and Kashmir except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriations made by law.

(3) The Lieutenant Governor on the advice of the Council of Ministers may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from, the Contingency Fund of the Union territory of Jammu and Kashmir.

70. (1) The executive power of the Union territory extends to borrowing upon the security of the Consolidated Fund of the Union territory of Jammu and Kashmir within such limits, if any, as may, from time to time, be fixed by Legislative assembly by law and to the giving of guarantees within such limits, if any, as may be so fixed.

Borrowing
upon the
security of
Consolidated
Fund of Union
territory of
Jammu and
Kashmir

(2) Any sums required for the purpose of invoking a guarantee shall be charged on the Consolidated Fund of the Union territory of Jammu and Kashmir.

71. The accounts of the Union territory of Jammu and Kashmir shall be kept in such form as the Lieutenant Governor may, after obtaining advice of the Comptroller and Auditor-General of India, prescribe by rules.

Form of
accounts of
the Union
territory of
Jammu and
Kashmir.

72. The reports of the Comptroller and Auditor-General of India relating to the accounts of Union territory of Jammu and Kashmir for any period subsequent to the date referred to in sub-section (1) of section 67 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Audit reports.

73. If the President, on receipt of a report from the Lieutenant Governor of Union territory of Jammu and Kashmir, or otherwise, is satisfied,—

Provision in
case of failure
of
constitutional
machinery.

(a) that a situation has arisen in which the administration of the Union territory of Jammu and Kashmir cannot be carried on in accordance with the provisions of this Act, or

(b) that for the proper administration of Union territory of Jammu and Kashmir 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 of Jammu and Kashmir in accordance with the provisions of this Act.

74. Where the Legislative Assembly is dissolved, or its functioning as such Assembly remains suspended, on account of an order under section 73, it shall be competent for the President to authorize, when the House of the People is not in session, expenditure from the Consolidated Fund of the Union territory of Jammu and Kashmir pending the sanction of such expenditure by Parliament.

Authorisation
of expenditure
by President.

PART VIII

High Court

High Court of
Jammu and
Kashmir to be
common High
Court.

75. (1) On and from the appointed day,—

(a) the High Court of Jammu and Kashmir shall be the common High Court for the Union territory of Jammu and Kashmir and Union territory of Ladakh;

(b) the Judges of the High Court of Jammu and Kashmir for the existing State of Jammu and Kashmir holding office immediately before the appointed day shall become on that day the Judges of the common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the Union territory of Jammu and Kashmir and Union territory of Ladakh on the basis of population ratio.

Special
provision
relating to Bar
Council and
advocates.

76. (1) On and from the date referred to in sub-section (1) of section 75, in the Advocates Act, 1961, in section 3, in sub-section (1),—

25 of 1961.

(a) in clause (a), the words "Jammu and Kashmir" shall be deleted.

(b) after clause (f), the following clause shall be inserted, namely—

- (g) - for the Union territory of Jammu and Kashmir and Union territory of Ladakh, to be known as the Bar Council of Jammu and Kashmir; and Ladakh.

(2) Any person who immediately before the date referred to in sub-section (1) of section 75 is an advocate on the roll of the Bar Council of the existing State of Jammu and Kashmir and practising as an advocate in the High Court of Jammu and Kashmir, may continue to be members of the "Bar council of Jammu and Kashmir; and Ladakh", notwithstanding anything contained in the Advocates Act, 1961 and the rules made thereunder.

(3) The persons other than the advocates who are entitled immediately before the date referred to in sub-section (1) of section 75, on and after that date, be recognised as such persons entitled also to practise in the common High Court of Jammu and Kashmir or any subordinate court thereof, as the case may be.

(4) The right of audience in the common High Court of Jammu and Kashmir shall be regulated in accordance with the like principles as immediately before the date referred to in sub-section (1) of section 75, are in force with respect to the right of audience in the High Court of Jammu and Kashmir.

Practice and
procedure in
common High
Court of
Jammu and
Kashmir.

77. Subject to the provisions of this Part, the law in force immediately before the date referred to in sub-section (1) of section 75 with respect to practice and procedure in the High Court of Jammu and Kashmir shall, with the necessary modifications, apply in relation to the common High Court of Jammu and Kashmir and accordingly, the common High Court of Jammu and Kashmir shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before that date exercisable by the common High Court of Jammu and Kashmir:

Provided that any rules or orders which are in force immediately before the date referred to in sub-section (1) of section 75 with respect to practice and procedure in the High Court of Jammu and Kashmir shall, until varied or revoked by rules or orders made by the common High Court of Jammu and Kashmir, apply with the necessary modifications in relation to practice and procedure in the common High Court of Jammu and Kashmir as if made by that Court.

Savings.

78. Nothing in this Part shall affect the application to the common High Court of Jammu and Kashmir of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the date referred to in sub-section (1) of section 75 with respect to the common High Court of Jammu and Kashmir by any Legislature or other authority having power to make such provision.

PART IX

ADVOCATE-GENERAL OF UNION TERRITORY OF JAMMU AND KASHMIR

79. (1) The Lieutenant Governor shall appoint a person who is qualified to be appointed a Judge of the High Court, to be Advocate-General for the Union territory of Jammu and Kashmir.

Advocate
General for
Union
territory of
Jammu and
Kashmir.

(2) It shall be the duty of such Advocate-General to give advice to the Government of such Union territory upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the said Government, and to discharge the functions conferred on him by or under the Constitution or any other law for the time being in force.

(3) In the performance of his duties, the Advocate-General shall have the right of audience in all courts in the Union territory of Jammu and Kashmir.

(4) The Advocate-General shall hold office during the pleasure of the Lieutenant Governor and receive such remuneration as the Lieutenant Governor may determine.

PART X

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES.

80. The Governor of existing State of Jammu and Kashmir may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the Union territory of Jammu and Kashmir as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the Union territory of Jammu and Kashmir:

Authorisation
of expenditure
of Union
territory of
Jammu and
Kashmir.

Provided that the Lieutenant Governor of Union territory of Jammu and Kashmir may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the Union territory of Jammu and Kashmir for any period not extending beyond the said period of six months.

81. The Governor of existing State of Jammu and Kashmir may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of Union territory of Jammu and Kashmir as he deems necessary for any period not more than six months beginning with the appointed day pending the sanction of such expenditure by the Parliament:

Authorisation
of expenditure
of Union
territory of
Ladakh.

Provided that the President may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of India for any period not extending beyond the said period of six months.

82. (1) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Jammu and Kashmir in respect of any period prior to the appointed day shall be submitted to the Lieutenant Governors of the successor Union territory of Jammu and Kashmir, and Union territory of Ladakh.

Reports
relating to
accounts of
Jammu and
Kashmir State.

(2) The Lieutenant Governor of Jammu and Kashmir, thereafter shall cause the reports to be laid before the Legislature of the Union territory of Jammu and Kashmir.

(3) The Lieutenant Governor of Jammu and Kashmir may by order—

(a) declare any expenditure incurred out of the Consolidated Fund of Jammu and Kashmir on any service in respect of any period prior to the appointed day during the financial year or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (1) to have been duly authorised; and

(b) provide for any action to be taken on any matter arising out of the said reports.

Distribution of
revenue.

83. (1) The award made by the Fourteenth Finance Commission to the existing State of Jammu and Kashmir shall be apportioned between the successor Union territory of Jammu and Kashmir; and Union territory of Ladakh by the Central Government on the basis of population ratio and other parameters:

Provided that on the appointed day, the President shall make a reference to the Union Territories Finance Commission to take into account the resources available to the successor Union territory of Ladakh and make separate award for the successor Union territory of Ladakh:

Provided that on the appointed day, the President shall make a reference to the Fifteenth Finance Commission to include Union territory of Jammu and Kashmir in its Terms of Reference and make award for the successor Union territory of Jammu and Kashmir.

(2) Notwithstanding anything in sub-section (1), the Central Government may, having regard to the resources available to the successor Union territory of Ladakh make appropriate grants and also ensure that adequate benefits and incentives in the form of special development package are given to the backward areas of this region.

PART XI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of
this Part.

84. (1) The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Jammu and Kashmir immediately before the appointed day, between the successor Union territory of Jammu and Kashmir and successor Union territory of Ladakh.

(2) The apportionment of the assets and liabilities of the existing State of Jammu and Kashmir shall be subject to the recommendations of a committee constituted by the Central Government.

(3) The process of apportionment shall be completed within a period of twelve months from the appointed day.

PART XII

PROVISIONS AS TO CERTAIN CORPORATIONS AND ANY OTHER MATTERS

Advisory
Committee(s).

85. (1) The Central Government may by order, establish one or more Advisory Committees within a period of 90 days from the appointed day, for the purposes of:

(a) apportionment of assets, rights and liabilities of the companies and corporations constituted for the existing State of Jammu and Kashmir between Union territory of Jammu and Kashmir and Union territory of Ladakh;

(b) issues relating to Continuance of arrangements in regard to generation and supply of electric power and supply of water;

(c) issues related to Jammu and Kashmir State Financial Corporation;

(d) issues related to Companies constituted for the existing state of Jammu and Kashmir regarding the division of the interests and shares and reconstitution of Board of Directors;

(e) issues related to facilities in certain State Institutions; and

(f) issues related to any other matters not covered under this section.

(2) The committees so appointed under sub-section (1) of this section, shall submit their reports within six months to the Lieutenant Governor of Union territory of Jammu and Kashmir, who shall act on the recommendations of such committees within a period of 30 days from the date of receiving such reports.

59 of 1988.

86. (1) Notwithstanding anything contained in section 88 of the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Jammu and Kashmir or any Regional Transport Authority in that State shall, if such permit was, immediately before the appointed day, valid and effective in any area in the transferred territory, be deemed to continue to be valid and effective in that area after that day till its period of validity subject to the provisions of that Act as for the time being in force in that area; and it shall not be necessary for any such permit to be countersigned by the Transport Authority of any of Union territory or any Regional Transport Authority therein for the purpose of validating it for use in such area:

Temporary provisions as to continuance of certain existing road transport permits.

Provided that the Lieutenant Governor may add to amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

(2) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in any of the successor Union Territories under any such permit, if such vehicle was, immediately before that day, exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may, after consultation with the Government of Union territory of Jammu and Kashmir or the administration of Union territory of Ladakh, as the case may be, authorise the levy of any such toll, entrance fees or other charges, as the case may be:

Provided further that the provisions of this sub-section shall not be applicable where any such tolls, entrance fees or other charges of a like nature are leviable for the use of any road or bridge which is constructed or developed for commercial purpose by the State Government, an undertaking of the State Government, a joint undertaking in which the State Government is a shareholder or the private sector.

43 of 1961.

87. Where the assets, rights and liabilities of any body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses or profits or gains sustained by the body corporate first-mentioned which, but for such transfer, would have been allowed to be carried forward and set off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961, shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which those losses were sustained.

Special provision as to income-tax.

PART XIII

PROVISIONS AS TO SERVICES

88. (1) In this section, the expression "State cadre"—

Provisions relating to All-India Services.

IAS (Cadre) rules, 1954.

(a) in relation to the Indian Administrative Service, has the same meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

IPS (Cadre) rules, 1954.

(b) in relation to the Indian Police Service, has the same meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954; and

IFS (Cadre) rules, 1966.

(c) in relation to the Indian Forest Service, has the same meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) The members of the cadres of Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Jammu and Kashmir, on and from the appointed day, shall continue to function on the existing cadres.

(3) The provisional strength, composition and allocation of officers currently borne on the existing cadre of Jammu and Kashmir to the Union territory of Jammu and Kashmir

and Union territory of Ladakh, as referred to in sub-section (2) shall be such as the Lieutenant Governor of Union territory of Jammu and Kashmir may, by order, determine on or after the appointed day.

(4) The members of each of the said services, currently borne on the Jammu and Kashmir cadre immediately before the appointed day shall be finally allocated between the successor Union territory of Jammu and Kashmir and Union territory of Ladakh, in such manner and with effect from such date or dates as the Central Government may, by order, specify on the recommendation of Lieutenant Governors of Union territory of Jammu and Kashmir; and Union territory of Ladakh.

(5) The Officers so allocated to both the Union Territories shall function within these Union Territories, in accordance with the rules framed by the Central Government.

(6) In future, the All India Service officers to be posted to Union territory of Jammu and Kashmir or Union territory of Ladakh, as the case may be, shall be borne on the Arunachal Goa Mizoram Union Territory cadre, and necessary modifications in corresponding cadre allocations rules may be made accordingly, by the Central Government.

Provisions
relating to
other services.

89. (1) Every person who immediately before the appointed day is serving on substantive basis in connection with the affairs of the existing State of Jammu and Kashmir shall, on and from that day provisionally continue to serve in connection with the affairs of the Union territory of Jammu and Kashmir and Union territory of Ladakh, by general or special order of the Lieutenant Governor of Union territory of Jammu and Kashmir:

Provided that every direction under this sub-section issued after the expiry of a period of one year from the appointed day shall be issued with the consultation of the Government or Administration of the successor Union Territories, as the case may be.

(2) As soon as may be after the appointed day, the Lieutenant Governor of Jammu and Kashmir shall, by general or special order, determine the successor Union territory to which every person referred to in sub-section (1) shall be finally allotted for service, after consideration of option received by seeking option from the employees, and the date with effect from which such allotment shall take effect or be deemed to have taken effect:

Provided that even after the allocation has been made, Lieutenant Governor of Union territory of Jammu and Kashmir may in order to meet any deficiency in the service, depute officers from one successor Union territory to the other Union territory.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor Union territory shall, if he is not already serving therein, be made available for serving in the successor Union territory from such date as may be agreed upon between the Government of the successor Union territory of Jammu and Kashmir and Administration of Union territory of Ladakh, or, in default of such agreement, as may be determined by the Central Government:

Provided that the Central Government shall have the power to review any of its orders issued under this section.

Other
provisions
relating to
services.

90. (1) Nothing in this section or in section 89 shall be deemed to affect, on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any Union territory:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the Union territory of Jammu and Kashmir or Union territory of Ladakh under section 89 shall not be varied to his disadvantage except with the previous approval of the Lieutenant Governor.

(2) All services prior to the appointed day rendered by a person,—

(a) if he is deemed to have been allocated to any Union territory under section 89, shall be deemed to have been rendered in connection with the affairs of that Union territory:

(b) if he is deemed to have been allocated to the Union in connection with the administration of the successor Union territory, shall be deemed to have been rendered in connection with the affairs of the Union, for the purposes of the rules regulating his conditions of service.

(3) The provisions of section 89 shall not apply in relation to members of any All-India Service.

91. Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Jammu and Kashmir in any area which on that day falls within one of the successor Union territory shall continue to hold the same post or office in that successor Union territory, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or other appropriate authority in, that successor Union territory:

Provisions as to continuance of officers in same post.

Provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

92. On and from the appointed day, the employees of State Public Sector Undertakings, corporations and other autonomous bodies shall continue to function in such undertaking, corporation or autonomous bodies for a period of one year and during this period the corporate body concerned shall determine the modalities for distributing the personnel between the successor Union Territories.

Provision for employees of Public Sector Undertakings, etc.

93. (1) The Public Service Commission for the existing State of Jammu and Kashmir shall, on and from the appointed day, be the Public Service Commission for the Union territory of Jammu and Kashmir.

Provisions as to State Public Service Commission.

(2) The Union Public Service Commission, with the approval of the President, shall serve the needs of the Union territory of Ladakh.

(3) The persons holding office immediately before the appointed day as the Chairman or other member of the Public Service Commission for the existing State of Jammu and Kashmir shall, as from the appointed day, be the Chairman or, as the case may be, the other member of the Public Service Commission for the Union territory of Jammu and Kashmir.

(4) Every person who becomes the Chairman or other member of the Public Service Commission for the Union territory of Jammu and Kashmir on the appointed day under subsection (3) shall be entitled to receive from the Government of the Union territory of Jammu and Kashmir, conditions of service not less favourable than those to which he was entitled under the provisions applicable to him.

(5) The report of the Jammu and Kashmir Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented to the Lieutenant Governor of the State of Jammu and Kashmir, and the Lieutenant Governor of the Union territory of Jammu and Kashmir shall, on receipt of such report, cause a copy thereof together with a memorandum explaining as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the Union territory of Jammu and Kashmir.

PART XIV

LEGAL AND MISCELLANEOUS PROVISIONS

94. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956, in clause (a), for the words "Jammu and Kashmir" the words "Union territory of Jammu and Kashmir and Union territory of Ladakh" shall be substituted.

Amendment of section 15 of Act 37 of 1956.

95. (1) All Central laws in Table -1 of the Fifth Schedule to this Act, on and from the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

Territorial extent of laws.

(2) All other laws in Fifth Schedule, applicable to existing State of Jammu and Kashmir immediately before the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh.

Power to
adapt laws.

96. For the purpose of facilitating the application in relation to the successor Union Territories, of any law made before the appointed day, as detailed in Fifth Schedule, the Central Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Power to
construe laws.

97. Notwithstanding that no provision or insufficient provision has been made under section 96 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the Union territory of Jammu and Kashmir or Union territory of Ladakh, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to
name
authorities,
etc., for
exercising
statutory
functions.

98. The Lieutenant Governor, as respects the concerned territory may, by notification in the Official Gazette, specify the authority, officer or person who, on or after the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal
proceedings.

99. Where, immediately before the appointed day, the existing State of Jammu and Kashmir is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment among the successor Union Territories under this Act, the Union territory of Jammu and Kashmir or the Union territory of Ladakh which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Jammu and Kashmir or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of
pending
proceedings.

100. (1) Every proceeding pending immediately before the appointed day before a court (other than High Court), tribunal, authority or officer in any area which on that day falls within the State of Jammu and Kashmir shall, if it is a proceeding relating exclusively to the territory, which as from that day are the territories of any Union territory, stand transferred to the corresponding court, tribunal, authority or officer of that Union territory.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the common High Court of Jammu and Kashmir and the decision of that High Court shall be final.

(3) In this section—

(a) proceeding includes any suit, case or appeal; and

(b) corresponding court, tribunal authority or officer in any of Union territory means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that Union territory, as may be determined after the appointed day by the Government or administration of that Union territory, or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Jammu and Kashmir to be the corresponding court, tribunal, authority or officer.

101. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate court in the existing State of Jammu and Kashmir shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to any of the Union Territories.

Right of
pleaders to
practise in
certain cases.

102. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Effect of
provisions of
the Act
inconsistent
with other
laws.

103. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of five years from the appointed day.

(2) Every order made under this section shall be laid before each House of Parliament.

The First Schedule

(See Section 9)

Union territory of Jammu and Kashmir

Members of Council of State

S.No.	Name of the sitting Member	Term
1.	Fayaz Mir Mohammad	11/02/2015 to 10/02/2021
2.	Laway Shri Nazir Ahmed	16/02/2015 to 15/02/2021
3.	Manhas Shri Shamsheer Singh	11/02/2015 to 10/02/2021
4.	Ghulam Nabi Azad	16/02/2015 to 15/02/2021

The Second Schedule

(See Section 11(1))

Amendments to the Delimitation of Parliamentary Constituencies Order, 1976

Union territory of Jammu and Kashmir

Parliamentary Constituencies

S.No.	Name of the Constituency	Extent of Constituency
1.	Baramulla	Baramulla District
2.	Srinagar	Srinagar District
3.	Anantnag	Anantnag District
4.	Udhampur	Udhampur, Doda and Kathua Districts
5.	Jammu	Jammu, Rajouri and Poonch Districts

Union territory of Ladakh

Parliamentary Constituency

S.No.	Name of the Constituency	Extent of Constituency
1.	Ladakh	Ladakh District

Note.— (i) Any reference in this Schedule to a district shall be taken to mean the area comprised within that district on the 1st day of August, 1975.

(ii) As per details included in Delimitation of Parliamentary and Assembly Constituencies Order, 1976 under Articles 81 & 82 of the Constitution of India as applied to the State of Jammu and Kashmir by the Constitution (Application to J&K) Order, 1954 (C.O. 48).

The Third Schedule

[See Section 14(5)]

Amendments to the Delimitation of Assembly Constituencies Order, 1995

Union territory of Jammu and Kashmir

Assembly Constituencies

S. No.	Name of the Assembly Constituency	Extent
1	2	3
KUPWARA DISTRICT		
1.	Karnah	All PCs of Tehsil Karnah; PC Keran of Tehsil Kupwara.
2.	Kupwara	PCs 18-Sulakot, 20-Radabug, 22-Bunhama, 23-Drugmulla, 25-Gushi, 26-Batargam, 27-Dadikoot, 30-Gulgani, 31-Harrai, 32-Hayan, 33-Trehgam, 34-Guglose, 35-Kralpora, 36-Guzeryal, 37-Gundizona-Reshi, 38-Panzgam, 39-Meelyal, 40-Shoolloora, 41-Dardihairi-Kharagund, 42-Kupwara and P.C. 55-Manzgam in Tehsil Handwara.
3.	Lolab	PCs 1-Harduring, 2-Chontiware, 3-Machil, 4-Kalaroch, 5-Khumrayal, 6-Kanthpora, 7-Wawoor, 8-Maidanpora, 9-Khurhama, 10-Warnow, 11-Krusan, 12-Sogam, 13-Darapora, 14-Lalpura, 15-Chandigam, 16-Tekipora, 17-Dewar Inderbug, 19-Manigah, 29-Haihama, 45-Dardapora in Kupwara Tehsil.
4.	Handwara	PCs 8-Maidan Chogal, 28-Taratpora, 29-Wilgam, 30-Lilam, 31-Dulipora, 32-Opzawani, 33-Shogapora, 34-Neelipora, 35-Magam, 36-Jagarpora, 39-Behnipora, 40 Rajipora, 41-Zachaldara, 42-Wadder, 43-Turkapora, 44-Chanjimulla, 45-Wadipora, 46-Bhaki Akhar, 47-Batakoot, 48-Braripora, 49-Waripora Gonipora, 50-Nutamoosa, 51-Kandikhas, 52-Handwara; 53- Dhama, 54-Panchakoot in Tehsil Handwara; and 21-Kegam, 28-Nagrimalpura, 24-Najatpora in Tehsil Kupwara.
5.	Langate	PCs 1-Langate, 2-Unusu, 3-Pohrupeth, 4-Glura, 5- Martgam, 6-Hanga, 7-Shanoo, 9-Nowgam, 10-Mawar, 11- Qalamchakla, 12- Adura, 13-Haril, 14-Drangsoo-Shah-Nagri, 15-Udipora, 16- Kralagund, 17-Lokipora, 18-Kichio Qazipora, 19-Khaipora, 20-Panditpora, 21-Super-Nagam, 22-Ashapora, 23-Safalpura, 24-Kralpora, 25-Deedarpora, 26-Shathgund-Balla, 27-Rawalpora, 37-Wasiakawnar, 38- Lachampora in Tehsil Handwara.
BARAMULLA DISTRICT		
6.	Uri	All PCs in Tehsil Uri.
7.	Rafiabab	PCs 11-Chakloo, 12- Nadihal, 13-Shitloo, 15-Biner Kahdoora in Tehsil Baramulla; and PCs 5-Nowpora Kalan, 8-Watargam, 9-Fidarpora, 10-Handipora, 11-Yarbug, 12-Riban-Ramhama, 13-Ladora, 14-Rehama, 15-Chijahama, 16- Wanpora, 17-Panzalla-Gundabal, 18- Saikooi, 19-Balhama-Thakanpora, 20-Chatoosa, 21-Dangiwacha, 22-Rawacha, 23-Harduchanam, 24-Bakshipora-Batapora, 25-Zithan, 36- Behrampora, 37-Chitlora, 38- Achabal in Tehsil Sopore.
8.	Sopore	PCs 1-Sopore with NAC, 2- Warapora, 3- Arampora, 4- Dangerpora, 6- Watalab, 32- Seeloo, 33- Botingoo, 34- Mundji, 35- Duroo, 39- Hardu-Shiva, 41- Aadipora-Bomai, 42-Wadoora, 40-Tufar-Pahlilhar, 43- Harwan, 44- Zalloora in Tehsil Sopore.

1	2	3
9.	Gurez	All PCs in Tehsil Gurez.
10.	Bandipora	All PCs in Tehsil Bandipora; and PC 1-Ajas of Tehsil Sonawari.
11.	Sonawari	All PCs in Tehsil Sonawari excluding PC 1-Ajas.
12.	Sangrama	PCs 16-Kreeri, 17-Wizar, 18-Authora, 19-Shalakawara, 20-Nowpora-Jagir, 21-Wagoora, 22-Kachumuqam, 24-Manigam, 25-Kalantara-Balla, 26-Dandmoh, 27-Sultanpora-Kandi in Tehsil Baramulla; and 7-Tarzo, 26-Hygam, 27-Seer-Jagir, 28-Bulagam, 29-Sangrama, 30-Krank-Shivan, 31-Wagub in Tehsil Sopore.
13.	Baramulla	PCs 1-Laridora, 2-Heewan, 30-Malapora, 4-Kich-Hama, 50-Ushkara, 6-Khanpora with NAC, 7-Khaja-Bagh, 8-Taki-Sultan, 9-Khaitangan, 10-Delina, 14-Kansipora, 23-Chandoosa in Tehsil Baramulla.
14.	Gulmarg	All PCs in Tehsil Gulmarg; and 2-Wailoo Kralpora, 8-Sriwarpora, 9-Chokar, 10-Waripora-Bangil, 12-Malmoh, 13-Nowlari, 16-Yal in Tehsil Pattan.
15.	Pattan	Tehsil Pattan excluding 2-Wailoo-Kralpora, 8-Sriwarpora, 9-Chokar, 10-Waripora Bangil, 12-Malmoh, 13-Nowlari and 16-Yal.
SRINAGAR DISTRICT		
16.	Kangan	All PCs of Tehsil Kangan; and PCs-Manigam, 2-Wailoo, 3-Nunar in Tehsil Ganderwal.
17.	Ganderbal	Tehsil Ganderbal excluding 1-Manigam, 2-Wailoo, 3-Nunar and P.C. Haran in Srinagar Tehsil.
18.	Hazratbal	Ward 16 in Srinagar Municipality (excluding Municipal areas not falling in Srinagar Tehsil but falling in Ganderbal Tehsil) and PC 9-Bachpora in Tehsil Ganderbal and Wards 17 and 12 except the following Mohallas of Ward 12 : Mugal Mohalla, Surateng, Khawjapora, Kocha Nidan, Zindashah and boat population of these wards.
19.	Zadibal	Wards 14 and 15 in Srinagar Municipality and boat population of Anchar and of the ghats of these wards.
20.	Idgah	Wards 8 and 11 in Srinagar Municipality and P.C. 38-Palpora and 41-Sangam in Srinagar Tehsil.
21.	Khanyar	Wards 10-13 of Srinagar Municipality and the following mohallas of Ward 12-Mugal Mohalla, Surateng, Khawjapora, Zindashah and Kocha Nidan and boat population of these wards.
22.	Habbakadal	Wards 7 and 9 in Srinagar Municipality and boat population of Wards 6, 7 and 9.
23.	Amirakadal	Wards 3 and 4 in Srinagar Municipality excluding (i) Natipora (rural), (ii) Rawalpura (rural), (iii) Hyderpora (rural); and excluding Aramwari, Gund Chandal, Stingoo, Sutho Kirther Bagh in Tehsil Chadoora and Watdoor, Galwanpora Laloo and Shesgam Bagh in Tehsil Badgam and boat population of these wards and of Ward 5.
24.	Sonawar	Wards 1 and 2 in Srinagar Municipality and Badamibagh Cantonment and P.C. 21-Chitrahama, 19-Dara, 29-Khunmu, 30-Balhama, 31-Zewan in Tehsil Srinagar and boat population of ghats in these wards.
25.	Batamaloo	Wards 5 and 6 in Srinagar Municipality; and PCs 6-Mujgund, 42-Bachipora Tengpora in Srinagar Tehsil.

1	2	3
BUDGAM DISTRICT		
26.	Chadoora	The following Patwar Circles of Tehsil Chadoora, 16-Chadoora, 24-Chattergam, 25-Wagora, 26-Wathura, 27-Khanda, 28-Bugam Batapora, 29-Kralpora, 30-Hayatpora, 31-Pohroo, 32-Rakh Shalina, 33-Bagati Kanipora, 34-Nowgam, 35-Kanihama, 36-Daulatpora, 38-Natipora rural area outside Srinagar Municipal limits in ward 4 and 39-Lasjan and Aramwari, Gund. Chandal Stengoo. Suthoo, Kirtherbagh and 40-Kursu Padshahibagh.
27.	Badgam	PCs 1-Soibugh, 2-Dhrmana, 3-Wahabpora, 4-Arth, 5-Wadwan, 6-Bemina, 7-Pallar, 8-Garriend Kalan, 9-Sholipra, 10-Nassar-ullah-Pora, 11-Jahama, 12-Water-Wani, 28-Chune, 29-Badgam, 30-Ompora 31-Narkara, 32-Humbama, 35-Karewa Damodar, 36-Gund-Sathu, 37-Ichakoot, 38-Ichgam, 33-Rawalpora (rural), 34-Hyderpora (rural) in Badgam Tehsil.
28.	Beerwah	PCs 1-Suzeth-Gooripora, 2-Kawoosa Khalisa, 3-Kawoosa Jagir, 4-Batapora Kahiama, 5-Sanoor-Kalipora, 6-Hardu Malpora, 7-Bandagam, 8-Utligam, 9-Mula-Shulla, 10-Sonapah, 12-Gondipora, 21-Shanglipora, 22-Khag, 23-Malpora Khag, 24-Himchipora, 25-Lalpora, 26-Beerwah, 27-Chewdara, 28-Peth Mukahama, 29-Rathusun, 30-Bona Makhama, 31-Nagam, 32-Iskanderpora, 33-Aripanthan, 34-Palpora, 36-Hardua-Shorsh in Tehsil Beerwah.
29.	Khansahib	PCs 1-Hokhalatri, 13-Phartahn, 14-Kandoora, 15-Drahg, 16-Sitaharan, 17-Zogikharian, 18-Arizal, 19-Qamroo, 20-Rawalpora-Berwah; and PC 35- Sail in Tehsil Berwah; and PCs 13-Waterhail, 14-Jawalapora, 15-Sondipora, 16-Dalipora, 17-Yari Khah, 18-Talapora, 19-Parnawah, 20-Drayagram, 21-Frestwar Khasipora, 22-Arigam, 23-Khan Sahib, 24-Raithan, 25-Kachwari, 26-Gurwait Kalan, 27-Falchall in Tehsil Budgam.
30.	Chrar-i-Sharief	PCs 1-Gogji Pathari, 2-Brinjan, 3-Hafroo Batapora, 4-Branawar, 5-Surasyar, 6-Dada-Ompara, 7-Hanjura, 8-Nowpora, 9-Pakharpora, 10-Hardu Dalwan Futlipora, 11-Teelsarah, 12-Chrar-i-Sharief, 13-Watkaloo, 14-Darawan Nowgam, 15-Chitsen, 17-Nagam, 18-Badipora, 19-Yarikalan, 20-Ropora Namtihal, 21-Kanir, 22-Ranger, 23-Sogam, 37-Nowhar in Tehsil Chadoora.
PULWAMA DISTRICT		
31.	Tral	All PCs in Tehsil Tral.
32.	Pampore	All PCs in Tehsil Pampore and Patwar Circles 26-Awantipora, 27-Padgampora, 29-Lilhar, 46-Nihama, 47-Kakapora in Tehsil Pulwama.
33.	Pulwama	PCs 1-Inder, 2-Gangoo, 5-Pulwama with NAC, 9-Ratnipora, 10-Pahoo, 11-Trich, 12-Koil, 13-Pinglina, 14-Narwa, 17-Litter-Shistar, 18-Nayina, 19-Panzgam, 20-Dogripora, 21-Rishipora, 22-Laderpur, 23-Nownagri, 24-Tokna, 25-Malangpora, 28-Lajoora, 40-Palapora, 45-Newa, 48-Jagir Parigam, 49-Tunchi Nowpora, 50-Hakripora in Tehsil Pulwama.
34.	Rajpora	PCs 3-Karimabad, 4-Moran, 6-Kangan, 7-Wahibugh, 8-Gosoo, 15-Bonarrah, 16-Trichal, 30-Ramoo, 31-Billowdergund, 32-Qasbayar, 33-Drubgam, 34-Mitrigam, 35-Abhama, 36-Trujan, 37-Khaigam, 38-Noorpora Payeen, 39-Arihal, 41-Tahab-Shadipora, 42-Achan, 43-Chandigam, 44-Rajpora in Tehsil Pulwama.
35.	Wachi	PCs 8-Kalroo Malikgund, 9-Nadigam, 11-Dangerpora, 12-Turka Wangam, 13-Urapora, 14-Hardu-Handow, 15-Harmain, 16-Chak-Chowand, 17-Kapran, 19-Dangam, 20-Chakora, 21-Pratabpora, 24-Kanji-Ullar, 25-Chitragam, 26-Darikalpora, 27-Hef, 28-Sugan, 29-Awnera, 30-Wachi, 31-Aglar, 32-Zainapora, and 39-Allowpora-Sheikhpora in Tehsil Shopian.

1	2	3
36.	Shopian	PCs 1-Saidapora, 2-Meemandar, 3-Arhama, 4-Pinjoora, 5-Ganowpora Arish, 6-Bemnipora, 7-Harapora, 10-Trenz, 18-Vehilchal-Awatoo, 22-Sedew, 23-Ram Nagri, 33-Diyaroo, 34-Barthipora, 35-Daramdoora, 36-Zoora-Baderhama, 37-Narapora, 38-Keegam, 40-Keller Mastpora, 41-Pahlipora, 42-Sindhu-Shrimal, 43-Shopian, 44-Devipora (forest block) in Tehsil Shopian.
ANANTNAG DISTRICT		
37.	Noorabad.	PCs 5-Malwan, 6- Pahloo, 7-Akhal, 23- Gudder, 34-Brinal Lamber, 46-Damhal-Hanjipora, 47- Ahmada-Abad, 48- Yaroo, 49 - Hardu-Mandagori, 51- Manzgam, 52-Asnoor, 53-Wattoo, 54-Avil, 55-Khuri-Batapora, 56-Nagam, 57-Danow-Kandimarg, 58-Bdi-Jehalan, 59-Chimar, 60-Qasba Khul, 61-Nandimarg in Tehsil Kulgam.
38.	Kulgam	PCs 1-Kulgam with NAC, 2-Hanad-Chawalgam, 3-Anmoo, 4-Chamabagund, 11-Ashmuji, 19-Mirhama, 20-Akey, 21-Pariwan, 22-Chehla, 24-Areh, 25-Bithibagh, 26-Gopalpora, 38-Bugam, 39-Tarigam-Devsar, 43-Yamroch, 44-Munand-Guffan, 45-Katersoo, 50-Largurhama in Tehsil Kulgam.
39.	Home-Shalibugh	PCs 8-Uranhal, 9-Tuli-Nowpora, 10-Kujar, 12-Redwani, 13-Arwani, 14-Frisal, 15-Jablipora, 16-Wanpora, 17-Hassanpora Tavela, 18-Khandi-Phari, 40-Tarigam-Devibugh, 41-Matibugh, 42-Homshalibugh in Tehsil Kulgam.
40.	Anantnag	PCs 1-Qasba Bhagat, 2-Khanabal, 3-Roohoo, 4-Kamar, 5-Anchidoora, 6-Hardu-Chichan, 10-Ranbirpora in Tehsil Anantnag.
41.	Devsar	PCs 27-Devsar, 28-Bona Devsar, 29-Kilam-Buzgam, 30-Hablihi, 31-Nipora, 32-Laram-Ganipora, 33-Chowgam, 35-Razloo, 36-Waitengu, 37-Sopat Tengpora, 62-Oral in Tehsil Kulgam ; and PCs 18-Vesoo, 19-Nasoo-Badargund, 20-Panzeth, 21-Kurigam, 23- Qazigund with NAC in Doru Tehsil.
42.	Doru	PCs 1- Doru, 2-Bragam, 3-Oibamdooth, 4-Mantpora, 5-Larkipora, 6-Hakura, -Badasgam, 7-Batgund, 8-Verinag, 9-Sadiwara, 10-Mundah, 11-Hiller, 12-Nowgam Shahabad, 13-Rain-Chowgund, 14-Thamankoot, 15-Qamar, 16-Halsidar, 17-Kapron, 22- Wangund in Tehsil Doru.
43.	Kokernag	PCs 28-Saagam, 29-Bider-Hayatpora, 30-Bhai, 31-Akingam, 32-Nagam, 33-Sool-Shali, 34-Panzgam, 35-Bindo-Zulangani, 36-Devalgam, 37-Nalla-Sund-Brari, 38-Lohar-Sunzi, 39-Ahlan-Gadol, 40-Kharatti, 41-Desoo, 42-Kharapora, 43-Qasba-Nowbugh, 44-Mati Hundoo, 45-Larnoo, 46-Kokernag NAC, 47-Achabal NAC in Tehsil Anantnag.
44.	Shangus	PCs 13-Sahibabad, 14-Nowgam, 15-Imoh, 16-Brakapora, 17-Shangus, 18-Uttarsoo, 19-Kreri, 20-Chatergul, 21-Ghikalpora, 22-Ranipora, 23-Detho-Nagnarian, 24-Gopalpora, 25-Telwani, 26-Kwarigam, 27-Ahupaisan in Tehsil Anantnag.
45.	Bijbehara	All PCs in Tehsil Bijbehara and PCs 7-Macha Bawan, 11-Nanilang, 12-Akora in Tehsil Anantnag.
46.	Pahalgam	All PCs in Tehsil Pahalgam and PCs 8-Seer-Kanligund, 9-Salia in Tehsil Anantnag.
DODA DISTRICT		
47.	Kishtwar	PCs 1-Marghi, 2-Inshan, 3-Yerudu, 4-Renai, 5-Nowpachi, 6-Chanjer, 7-Qaderana, 8-Deharana, 9-Lopara, 10-Lohana, 11-Soundhar, 19-Palmar, 30-Trigam, 31-Kishtwar, 32-Matta, 33-Poochal, 34-Dool, 35-Bhagnah, 36-Galarbahta, 37-Atholi, 38-Sohal, 39-Ishtiari, 40-Gulabgarh, 41-Massu, 42-Kishtwar NAC, 43-Forest Block in Tehsil Kishtwar.
48.	Inderwal	PCs 12-Chingam, 13-Inderwal, 14-Chatroo, 15-Sigdi, 16-Moolchhiter, 17-Drubeel, 18-Kochal, 20-Filler, 21-Pakhalan, 22-Keshwan, 23-Shandri, 24-Sangna, 25-Patnazi,

1	2	3
		26-Jawalapur, 27-Loundri, 28-Badhat and 29-Karool in Tehsil Kishtwar ; PCs 1-Jakyas in Tehsil Bhafesa (Gandoh) and following PCs of Tehsil Thathri :-- 1-Jangalwar, 3-Malanoo, 4-Kansu, 10-Kandote.
49.	Doda	All PCs of Tehsil Doda except 8-Dessa, 9-Dhandal, 10-Kastigarh, 11-Shamti, 12-Chaka Kundi, 13-Assar, 14-Charota.
50.	Bhaderwah	All PCs of Tehsil Bhaderwah and PCs 2-Budhli, 3-Chilli, 4-Drawani, 5-Kahal Jugasar, 6-Budwar, 7-Chanisar, 8-Kilotran, 9-Kharangal, 10-Gandoh in Tehsil Bhafesa ; and PCs 2-Jora, 5-Bhaja, 6-Bhalla, 7-Jagiti, 8-Bhallari, 9-Rokali, 11-Pamshayee in Tehsil Thathri.
51.	Ramban (SC)	All PCs of Tehsil Ramban except 5-Sarbagni and PCs of 8-Dessa, 9-Dhandal, 10-Kastigarh, 11-Shamti, 12-Chaka, 13-Assar, 14-Charota of Tehsil Doda.
52.	Banihal	All PCs of Tehsil Banihal and 5-Sarbagni in Tehsil Ramban.
UDHAMPUR DISTRICT		
53.	Gulabgarh	PCs 2-Mahore, 2-Sarh, 3-Dewal, 4-Gulabgarh, 5-Chasote, 6-Bagankote, 7-Shergarhi, 8-Shikari, 9-Kanthi, 10-Tulibana, 13-Shajroo in Tehsil Gulabgarh and PC 16-Jij in Tehsil Reasi.
54.	Reasi	Tehsil Reasi except following PCs:— 1-Salal, 15-Chinkah, 16-Jij, 17-Thakrakote and following PCs of Tehsil Udhampur:— 13-Panjar, 14-Lali, 15-Ladah, 17-Dhandu, 18-Jhandawa, 32-Badhota and 19-Suhal.
55.	Gool Arnas	Following PCs of Tehsil Gool Gulabgarh:— 11-Thuru, 12-Bhudhan, 14-Kanthan, 15-Judda, 16-Dhanow, 17-Kali Masta, 18-Gool, 19-Thatharka, 20-Sangaldan, 21-Forest Block ; and 1-Salal, 15-Chinkah, 17-Thakrakote in Tehsil Reasi.
56.	Udhampur	All PCs of Tehsil Udhampur except the following PCs :— 13-Panjar, 14-Lali, 15-Ladha, 17-Dhandu, 18-Jhandawa, 19-Suhal, 20-Ludha, 21-Balian, 27-Sunal, 29-Meer, 30-Kathi, 32-Badhota.
57.	Chenani (SC)	All PCs of Tehsil Chenani and following PCs of Tehsil Udhampur :— 20-Ladha, 21-Balian, 27-Sunal, 29-Meer, 30-Kathi and following PCs of Tehsil Ramnagar. 10-Dudu, 11-Latti, 31-Ghordi, 33-Hartarian, 34-Dandal, 35-Barmeen, 36-Nalla Ghoran.
58.	Ramnagar	All PCs of Tehsil Ramnagar except the following :— 10-Dudu, 11-Latti, 31-Ghordi, 33-Hartarian, 34-Dhandal, 35-Barmeen, 36-Nala Ghoran.
KATHUA DISTRICT		
59.	Bani	PCs 14-Bani, 15-Banjai, 16-Patehpur, 17-Sandroon, 18-Rolka, 19-Buggah, 20-Lowang, 21-Kanthai, 22-Surjan, 23-Dhanggar, 24-Koti, 25-Forest Block in Tehsil Basohli and 9-Godu Flal, 10-Bdnora, 11-Machadi, 20-Malhar in Tehsil Billawar.
60.	Basohli	PCs 1-Thein, 2-Basantpur, 3-Lakhanpur, 4-Hatli, 7-Tridwan, 36-Lakhanpur NAC, 29-Berthian and 30-Sorlian in Tehsil Kathua and PCs 1-Basohli, 1-a-Basohli NAC, 2-Sandhar, 3-Hutt, 4-Bhoond, 5-Saman, 6-Dhar Jankar, 7-Dhar Mahanpur, 8-Plahi, 9-Prita, 10-Saber, 11-Patti, 12-Athalith, 13-Mahanpur in Tehsil Basohli and PCs 21-Dhar Digno, 22-Huttar, 23-Dambra in Tehsil Billawar.

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61.	Kathua	PCs 5-Dilwan, 6-Maha, 8-Kharote, 9-Taraf Manjili, 10-Taraf Tajwal, 11-Karian, 12-Taraf Bajwal, 13-Changran, 14-Govindsar, 15-Chak Soon Noopa, 16-Khakhyal, 17-Mirpur Ram, 18-Taraf Balla, 20-Katharian, 21-Janglote, 22-Loagate, 23-Jakhbar, 24-Airwan, 26-Chak Sakta, 27-Budhi, 28-Nanan, 31-Barwal, 32-Jherhere, 33-Kathua Forest Block, 34-Kathua NAC, 35-Perlain and 25-Folote in Tehsil Kathua.
62.	Billawar	PCs 11-Katli, 17-Bhaya, 21-Denga Amb, 23-Dhamal, 25-Mangloor, 26-Chelakh, 27-Salain in Tehsil Hiranagar and PCs 1-Ramkot, 2-Makwal, 3-Salora, 4-Rajwla, 5-Danjisdhar, 6-Thara Kalwal, 7-Kalyal, 8-Thanthoo, 12-Kohag, 13-Malti, 14-Durang, 15-Dharan Kote, 16-Bhaddu, 17-Billawar, 18-Billawar NAC, 19-Buggan, 24-Parnala, 25-Pallan in Tehsil Billawar and PC 19-Juthana in Tehsil Kathua.
63.	Hiranagar (SC)	1-Jatwal, 2-Nonath, 3-Chagwal, 4-Sarath, 5-Bhatyari Kotlan, 6-Sanoora, 7-Mawa, 8-Nohran, 9-Chachwal, 10-Sarti Kalan, 12-Chak Dulma, 13-Jondli, 14-Londi, 15-Rajpura, 16-Kootah, 18-Gurah Mathian, 19-Bavia, 20-Katal Brahmana, 24-Hamirpur, 28-Chhan Rorian, 29-Marheen, 22-Saiswan, 30-Khanpur, 31-Hiranagar, 32-Hiranagar NAC, 33-Pansar, 34-Kore Punu, 35-Chak Deva, 36-Chak Bhagwana, 37-Chak Kahna, 38-Chadwal, 39-Forest Block in Tehsil Hiranagar.
JAMMU DISTRICT		
64.	Samba (SC)	PCs 1-NAC Samba, 2-Samba Khas, 3-Taloor, 4-Amla, 5-Durin, 6-Katli, 7-Ram Nagar, 8-Pingdore, 11-Sunian, 10-Sarna, 12-Bhartgarh, 13-Suran, 14-Goran, 15-Balhter, 17-Katwala, 18-Kharah Madena, 21-Baghore, 22-Purmandal, 24-Mohar Garh, 25-Badhari, 26-Kard in Tehsil Samba and PC 28-Chaudi in Jammu Tehsil.
65.	Vijaypur	PCs 9-Khanpur, 20-Vijaypur, 23-Gurah Salathian, 28-Harmander, 29-Chak Salarian, 30-Nanga, 31-Logwal, 32-Keso Manhasan, 33-Ramgarh, 34-Gho-Brahmana, 35 Chak Chataka, 36-Chann Fatwal, 37-Abtal, 38-Swankha, 39-Mahal Shan, 40-Rari, 41-Smailpur, 27-Birpur, 42-Tarore, 43-Bagla, 44-Gandwal in Tehsil Samba.
66.	Nagrota	PCs 39-Ranjan, 40-Sarote, 41-Jandial, 42-Gorda, 44-Nagrota, 45-Dansal, 46-Jhajar Kotli, 47-Thara, 48-Bamyal, 49-Katal Batal, 50-Shiba, 51-Jagti, 52-Jindrah, 53-Kanyala, 54-Kothar, 55-Kharte, 56-Dhan, 57-Songoon, 58-Ponthal, 59-Surinsar in Tehsil Jammu and PCs 16-Bain Bajalta, 19-Aitham in Tehsil Samba.
67.	Gandhinagar	Ward-16 (Gandhinagar), Ward-17 (Naibasti), Ward-22 (Chhani Rama), Ward-23 (Bahu), 24-Digiana, 26-Bahu, 27-Sunjwan, 29-Gadigarh, 30-Satwari in Tehsil Jammu.
68.	Jammu East	Wards 1 to 6, 9, 10, 12 and 15.
69.	Jammu West	Wards 7, 8, 11, 13, 14, 18, 19, 20 and 21.
70.	Bishnah	All PCs in Tehsil Bishnah and 25-Naugran in Tehsil Jammu.
71.	R. S. Pura (SC)	PCs 1-Salhar, 2-Rathana, 3-Kandlihar, 4-Khour, 5-Kalyana, 14-R. S. Pura with NAC, 15-Khas Gigiani, 16-Chohalla, 19-Kirpind, 20-Kotli Shah Dula, 25-Martia, 24-Darsopur, 35-Gondla in Tehsil R. S. Pura.
72.	Suchetgarh	PCs 6-Dablihar, 7-Magowali, 8-Parlah, 9-Chak Baza, 10-Nekowal, 11-Jevroh, 12-Saie Kalan, 13-Chak Mulo, 17-Badyal Brahmana, 18-Jssore, 21-Chak Agra, 22-Fatehpur Brahmana, 25-Samka, 26-Basapur, 27-Rangpur Malana, 28-Suchetgarh, 29-Chandu Chak, 30-Satowali, 31-Grarana, 32-Badyal Qazian, 33-Abdal, 34-Chakroi in Tehsil R. S. Pura.
73.	Marh	PCs 60-Prahaladpur, 61-Mandal, 62-Sum, 65-Gho Manhasan, 66-Sohanjara, 67-Thub, 68-Sahran, 69-Rathua, 70-Chanore, 71-Makwal, 72-Gool, 74-Gajansoo, 75-Kalyanpur, 76-Kahnachak, 77-Marh, 78-Gangoo Chak, 79-Kalrup, 80-Dhateryal, 31-Flora Nagbani in Tehsil Jammu.

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74.	Raipur Domana (SC)	PCs 31-Paloura, 32-Muthi, 33-Barn, 34-Siri Panditan, 35-Gharota, 36-Raipur Domana, 37-Kot Bhalwal, 38-Amb, 43-Kaink, 63-Hakkal, 64-Khandwal, 73-Bhadora, 82-Panjore in Tehsil Jammu.
75.	Akhnoor	PCs 1-Chowki, 2-Choura, 3-Kathar, 4-Mandarian, 8-Narri, 6-Ambaran, 7-Barui, 9-Ganderwan, 10-Manda, 11-Akhnoor Khas, 12-Sungal, 13-Pangairi, 14-Devipur, 15-Chak Kirpalpur, 16-Jadh, 17-Muthi Maira, 18-Rakh Dhoke, 19-Saliote, 20-Ghar Majoor, 21-Mawa Brahmana, 22-Leherian in Tehsil Akhnoor.
76.	Chhamb (SC)	PCs 8-Mattoo, 24-Gurah Manhasan, 25-Sarwal, 23-Pargwal, 26-Bhalwal Malu, 27-Hamirpur, 28-Bakore, 29-Chak Malal, 30-Derian, 31-Sainth, 32-Gigarial, 33-Khour, 34-Kot Mera, 35-Palanwala, 36-Kharah, 37-Nathal, 38-Doorri, 39-Chhani Dewanoo, 40-Samuan, 41-Chaklia in Tehsil Akhnoor.
RAJOURI DISTRICT		
77.	Nowshera	All PCs of Tehsil Nowshera except 11-Narian and all PCs of Tehsil Sunderbani.
78.	Darhal	All PCs of Tehsil Budhal except 3-Khawas, 6-Kote Chalwal and following PCs of Tehsil Thanamandi :— 5-Darhal, 6-Chowdian, 7-Nadian, 8-Ujhan ; and PC 4-Nagota in Tehsil Rajouri.
79.	Rajouri	Following PCs of Tehsil Rajouri :— 1-Gambir Muglan, 2-Dani-Dhar, 7-Bathooni, 8-Sarola, 9-Sohana, 10-Doongi Brahmana, 11-Katarmal, 12-Deri Delote, 13-Panj Grain, 14-Galhoti, 15-Fatehpur, 17-Bagla, 19-Rampur with NAC Rajouri with following PCs of Thanamandi Tehsil :— 1-Dodasan Balla, 2-Saaj, 3-Shahdara Sharief, 4-Hosplote, 10-Thanamandi with NAC and 9-Bharote.
80.	Kalakote	All PCs of Tehsil Kalakote and following PCs of Tehsil Rajouri :— 2-Dalhari, 3-Dhangri, 6-Potha Grlana, 16-Khanpur Chingus, 18-Bhadoo and PC 11-Narian of Tehsil Nowshera ; and 3-Khaskote Chalwal of Budhal Tehsil.
POONCH DISTRICT		
81.	Surankote	All PCs in Surankote Tehsil and PCs 12-Rajpur, 21-Shindra, 22-Seri-Khawja in Poonch Tehsil.
82.	Mendhar	All PCs of Tehsil Mendhar.
83.	Poonch Haveli	All PCs of Tehsil Poonch except 12-Rajpur, 21-Shindra, 22-Seri Khawja.

Note.—Any reference in this table to a Tehsil, Patwar Circle (P.C.), Ward or N.A.C. (Notified Area Committee) shall be taken to mean the area comprised within that Tehsil, Patwar Circle, Notified Area Committee or Ward as on 1-4-1995.

The Fourth Schedule

(See Sections 16, 24 and 54)

FORMS OF OATHS OR AFFIRMATIONS

I

FORM OF OATH OR AFFIRMATION TO BE MADE BY A CANDIDATE FOR ELECTION TO THE LEGISLATIVE ASSEMBLY OF THE UNION TERRITORY OF JAMMU AND KASHMIR

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of _____ 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 that I will uphold the sovereignty and integrity of India."

II

FORM OF OATH OR AFFIRMATION TO BE MADE BY A MEMBER OF THE LEGISLATIVE ASSEMBLY OF THE UNION TERRITORY OF JAMMU AND KASHMIR

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly of _____ 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, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

III

FORM OF OATH OF OFFICE FOR A MEMBER OF THE COUNCIL OF MINISTERS OF THE UNION TERRITORY OF JAMMU AND KASHMIR

"I, A.B., _____ 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, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for the Union territory of _____, and that I will do right to all manner of people in accordance with the Constitution and the law without fear and favour, affection or ill-will."

IV

FORM OF OATH OF SECRECY FOR A MEMBER OF THE COUNCIL OF MINISTERS OF THE UNION TERRITORY OF JAMMU AND KASHMIR

"I, A.B., _____ do swear in the name of God/ solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union territory of _____, except as may be required for the due discharge of my duties as such Minister."

The Fifth Schedule
(See Sections 95 and 96)

TABLE - 1

CENTRAL LAWS MADE APPLICABLE TO THE UNION TERRITORY OF JAMMU AND KASHMIR: AND
UNION TERRITORY OF LADAKH

S.No.	Name of the Act	Section/Amendments
1.	The Aadhar (Targeted Delivery of Financial and other subsidies, benefits and services) Act, 2016.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
2.	The Administrative Tribunal Act, 1985.	Clause (b) of sub-section (2) of section 1 shall be omitted.
3.	The Anand Marriage Act, 1951.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
4.	The Arbitration and Conciliation Act, 1996.	Proviso to sub-section (2) of section 1 shall be omitted.
5.	The Benami Transactions (Prohibition) Act, 1988.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
6.	The Charitable Endowment Act, 1890.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
7.	The Chit Funds Act, 1982.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
8.	The Code of Civil Procedure, 1908.	Clause (a) of sub-section (3) of section 1 shall be omitted.
9.	The Code of Criminal Procedure, 1973.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
10.	The Commercial Courts Act, 2015.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
11.	The Commission for Protection of Child's Rights Act, 2006.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
12.	The Commission of Inquiry Act, 1952.	Proviso to sub-section (2) of section 1 shall be omitted.
13.	The Consumer Protection Act, 1986.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
14.	The Contempt of Courts Act, 1971.	Proviso to sub-section (2) of section 1 shall be omitted.
15.	The Delimitation Act, 2002.	Section 2(f) shall be omitted.
16.	The Dissolution of Muslim Marriage Act, 1939.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
17.	The Disturbed Areas (Special Courts) Act, 1976.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
18.	The Dowry Prohibition Act, 1961.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
19.	The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
20.	The Easements Act, 1891.	Extended as whole.

S.No.	Name of the Act	Section/Amendments
21.	The Electricity Act, 2003.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
22.	The Employees Provident Funds and Miscellaneous Provisions Act, 1952.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
23.	The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.	Extended as whole.
24.	The Enemy Property Act, 1968.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
25.	The Energy Conservation Act, 2001.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
26.	The Family Courts Act, 1984.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
27.	The Fatal Accidents Act, 1855.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
28.	The Forest (Conservation) Act, 1980.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
29.	The General Clauses Act, 1897.	Extended as whole.
30.	The Governors (Emoluments, Allowances & Privileges) Act, 1982.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
31.	The Gram Nyayalayas Act, 2009.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
32.	The Guardian & Wards Act, 1890.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
33.	The Hindu Adoptions and Maintenance Act, 1956.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
34.	The Hindu Disposition of Property Act, 1960.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
35.	The Hindu Marriage Act, 1955.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
36.	The Hindu Minority & Guardianship Act, 1956.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
37.	The Hindu Succession Act, 1956.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
38.	The Identification of Prisoners Act, 1920.	Extended as whole.
39.	The Indecent Representation of Women (Prohibition) Act, 1986.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
40.	The Indian Boilers Act, 1923.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
41.	The Indian Christian Marriage Act, 1872.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
42.	The Indian Contract Act, 1872.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.

S.No.	Name of the Act	Section/Amendments
43.	The Indian Easements Act, 1882.	Extended as whole.
44.	The Indian Evidence Act, 1872.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
45.	The Indian Forest Act, 1927.	Extended as whole.
46.	The Indian Nursing Council Act, 1947.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
47.	The Indian Partnership Act, 1932.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
48.	The Indian Penal Code, 1860.	In section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
49.	The Indian Stamp Act, 1899.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
50.	The Indian Succession Act, 1925.	Extended as whole.
51.	The Indian Trust Act, 1882.	In section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
52.	The Indian Veterinary Council Act, 1984.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
53.	The Judges (Protection) Act, 1985.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
54.	The Judicial Officers (Protection) Act, 1950.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
55.	The Juvenile Justice (Care & Protection of Children) Act, 2015.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
56.	The Legal Services Authorities Act, 1987.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
57.	The Limitation Act, 1963.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
58.	The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
59.	The Majority Act, 1875.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
60.	The Medical Termination of Pregnancy Act, 1971.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
61.	The Muslim Personal Law (Shariat) Application Act, 1937.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
62.	The Muslim Women (Protection of Rights on Divorce) Act, 1986.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
63.	The National Commission for Minorities Act, 1992.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
64.	The National Commission for Minority Educational Institutes Act, 2005.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
65.	The National Commission for Safaikaramcharis Act, 1993.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.

S.No.	Name of the Act	Section/Amendments
66.	The National Commission for Women Act, 1990.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
67.	The National Council for Teacher Education Act, 1993.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
67-A	National Security Act, 1980	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
68.	The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
69.	The Oaths Act, 1969.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
70.	The Partition Act, 1893.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
71.	The Pharmacy Act, 1948.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
72.	The Powers of Attorney Act, 1882.	In section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
73.	The Preconception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
74.	The Prevention of Blackmarketing & Maintenance of Supplies of Essential Commodities Act, 1980.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
75.	The Prevention of Corruption Act, 1988.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
76.	The Prevention of cruelty to animals Act, 1960.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
77.	The Prevention of Damage to Public Property Act, 1984.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
78.	The Prisoners Act, 1900.	Extended as whole.
79.	The Prisons Act, 1894.	Extended as whole.
80.	The Private Security Agencies (Regulation) Act, 2005.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
81.	The Prize Chits and Money Circulation Scheme (Banning) Act, 1978.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
82.	The Probation of Offenders Act, 1958.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
83.	The Prohibition of Child Marriage Act, 2007.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
84.	The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
85.	The Protection of Children From Sexual Offences Act, 2012.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.

S.No.	Name of the Act	Section/Amendments
86.	The Protection of Human Rights Act, 1994.	Proviso to sub-section (2) of section 1 shall be omitted.
87.	The Protection of Women from Domestic Violence Act, 2005.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
88.	The Public Gambling Act, 1867.	Extended as whole.
89.	The Public Records Act, 1993.	Extended as whole.
90.	The Registration Act, 1908.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
91.	The Religious Endowments Act, 1863.	Extended as whole.
92.	The Religious Institutions (Prevention of Misuse) Act, 1988.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
93.	The Right of Children to Free and Compulsory Education Act, 2009.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
94.	The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
94A.	The Representation of People Act, 1951.	In Section (2), (i) In sub-section (1) Clause (d) the words "other than the State of Jammu and Kashmir" shall be omitted; and (ii) Sub-section (5) shall be omitted.
95.	The Right to Information Act, 2005.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
96.	The Sale of Goods Act, 1930.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
97.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2007.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
98.	The Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
99.	The Special Marriage Act, 1954.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
100.	The Specific Relief Act, 1963.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
101.	The Suits Valuation Act, 1887.	Extended as whole.
102.	The Transfer of Property Act, 1882.	Extended as whole.
103.	The Transplantation of Human Organs and Tissues Act, 1994.	Extended as whole.
104.	The Wakf Act, 1995.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
105.	The Whistle Blowers Protection Act, 2014.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.
106.	The Wild Life (Protection) Act, 1972.	In sub-section (2) of section 1, words, "except the State of Jammu and Kashmir" shall be omitted.

TABLE-2

STATE LAWS WHICH SHALL BE APPLICABLE TO THE UNION TERRITORY OF JAMMU AND KASHMIR
AND UNION TERRITORY OF LADAKH WITH AMENDMENTS

S.No.	Year	No.	Short title	Amendments
1	2	3	4	5
1.	Svt 1977 (1920 AD)	XLII	The Transfer of Property Act	Section 139 and section 140 shall be omitted.
2.	Svt 1995 (1938 AD)	V	The Jammu and Kashmir Alienation of Land Act	Section 4 and section 4-A shall be omitted.
3.	Svt 2007 (1950 AD)	XVII	The Jammu and Kashmir Big Landed Estates Abolition Act	Section 20-A shall be omitted.
4.	1960	XXXVIII	The Jammu and Kashmir Land Grants Act	A. Provisos to sub-section 1 of section 4 shall be omitted; and B. Clause (i) of sub-section 2 of section 4 shall be omitted.
5.	1976	XVII	The Jammu and Kashmir Agrarian Reforms Act	Section 17 shall be omitted.
6.	1989	X	The Jammu and Kashmir Cooperative Societies Act	Sub-Clause (ii) of clause (a) of sub-section (1) of section 17 shall be omitted.
7.	2004	XIV	The Jammu and Kashmir Reservation Act	A. In section 2 after clause (g), the following clause shall be inserted namely:— <p>"(ga) "economically weaker sections" means such categories as may be notified by the Government from time to time, on the basis of family income and other indicators of economic disadvantage, other than the classes or categories defined in clauses (m), (n) and (o)";</p> <p>B. In section 3, in sub-section (1).— <p>(i) in clause (a), the word "and" occurring at the end shall be omitted;</p> <p>(ii) in clause (b), for the words "backward classes", the words "backward classes; and" shall be substituted;</p> <p>(iii) after clause (b), the following clause shall be inserted, namely:— <p>"(c) economically weaker sections:";</p> <p>(iv) in the first proviso, for the words "the total percentage of reservation", the words, brackets and letters "the total percentage of reservation provided in clauses (a) and (b)" shall be substituted;</p> <p>(v) in the second proviso, for the words "Provided further that", the following shall be substituted, namely:—</p> </p></p>

1	2	3	4	5
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"Provided further that the reservation in appointments in favour of the persons belonging to economically weaker sections shall be in addition to the existing reservation as provided in this sub-section and shall be subject to a maximum of ten per cent. of the posts in each category:

Provided also that".

C. In section 9, in sub-section (1),—

(i) for the portion beginning with "shall reserve" and ending with "from time to time;", the following shall be substituted, namely:—

"shall reserve seats in the Professional Institutions for candidates belonging to,—

(a) reserved categories and such other classes or categories as may be notified from time to time; and

(b) economically weaker sections:"

(ii) in the proviso, for the words "the total percentage of reservation", the words, brackets and letter "the total percentage of reservation provided in clause (a)" shall be substituted;

(iii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the reservation in the Professional Institutions in favour of the persons belonging to economically weaker sections shall be in addition to the existing reservation as provided in this sub-section and shall be subject to a maximum of ten per cent. of the seats in each category."

TABLE-3

STATE LAWS INCLUDING GOVERNOR'S ACTS WHICH ARE REPEALED IN UNION TERRITORY OF JAMMU AND KASHMIR; AND UNION TERRITORY OF LADAKH

S.No.	Name of the Act	Act/Ordinance No.
1.	The Jammu and Kashmir Accountability Commission Act, 2002.	XXXVIII of 2002
2.	The Jammu and Kashmir Advocates Welfare Fund Act, 1997.	XXVI of 1997
3.	The Jammu and Kashmir Agricultural Income Tax Act, 1962.	XXI of 1962
4.	The Jammu and Kashmir [State] Agricultural Produce Marketing Regulation Act, 1997.	XXXVI of 1997
5.	The Jammu and Kashmir Anand Marriage Act, 1954.	IX of 2011
6.	The Jammu and Kashmir Animal Diseases (Control) Act, 1949.	XV of 2006
7.	The Jammu and Kashmir Apartment Ownership Act, 1989.	I of 1989
8.	The Jammu and Kashmir Arbitration and Conciliation Act, 1997.	XXXV of 1997
9.	The Jammu and Kashmir Arya Samajist Marriages (Validation) Act, 1942.	III of Svt. 1999
10.	The Jammu and Kashmir Ayurvedic and Unani Practitioners Act, 1959.	XXVI of 1959
11.	The Jammu and Kashmir Banker's Books Evidence Act, 1920.	VI of 1977
12.	The Jammu and Kashmir Benami Transactions (Prohibition) Act, 2010.	V of 2010
13.	The Jammu and Kashmir Boilers Act, Samvat, 1991.	IV of Svt. 1991
14.	Buddhists Polyandrous Marriages Prohibition Act, 1941.	II of 1998
15.	The Jammu and Kashmir Cattle Trespass Act, 1920.	VII of 1977
16.	The Jammu and Kashmir Charitable Endowments Act, 1989.	XIV of 1989
17.	The Jammu and Kashmir Chit Funds Act, 2016.	XI of 2016
18.	The Jammu and Kashmir Christian Marriage and Divorce Act, 1957.	III of 1957
19.	The Jammu and Kashmir Cinematograph Act, 1933.	XXIV of 1989
20.	Code of Civil Procedure, Samvat 1977.	X of Svt. 1977
21.	Code of Criminal Procedure, Samvat 1989.	XXIII of Svt. 1989
22.	The Jammu and Kashmir Collection of Statistics Act, 2010.	XVIII of 2010
23.	The Jammu and Kashmir [State] Commission for Women Act, 1999.	V of 1999
24.	The Jammu and Kashmir Commission of Inquiry Act, 1962.	XXXII of 1962
25.	The Jammu and Kashmir Consumer Protection Act, 1987.	XIV of 1987
26.	The Jammu and Kashmir Contempt of Courts Act, 1997.	XXV of 1997
27.	The Jammu and Kashmir Contingency Fund Act, 1957.	XXIV of 1957
28.	The Jammu and Kashmir Contract Act, Samvat 1977.	IX of Svt. 1977
29.	The Jammu and Kashmir Court Fees Act, Samvat 1977.	VII of Svt. 1977
30.	The Jammu and Kashmir Court of Wards Act, Samvat 1977.	LII of Svt. 1977

S.No.	Name of the Act	Act/Ordinance No.
31.	The Jammu and Kashmir Criminal Law Amendment Act, Svt 1993.	I of Svt. 1993
32.	The Jammu and Kashmir Criminal Law Amendment Act, 1958.	III of 1958
33.	The Jammu and Kashmir Criminal Law Amendment Act, 1983.	X of 1983
34.	The Jammu and Kashmir Customs Act, Svt 1958.	VIII of Svt. 1958
35.	The Jammu and Kashmir Dehi Adalats Act, 2013.	XV of 2013
36.	The Jammu and Kashmir Destruction of Records Act, 1920.	XII of 1977
37.	The Jammu and Kashmir Displaced Persons (Permanent Settlement) Act, 1971.	X of 1971
38.	The Jammu and Kashmir Dissolution of Muslim Marriages Act, 1942.	X of Svt. 1999
39.	The Jammu and Kashmir Dowry Restraint Act, 1960.	XXXVI of 1960
40.	The Jammu and Kashmir Easements Act, 1920.	XIV of Svt. 1977
41.	The Jammu and Kashmir Electricity Act, 2010.	XIII of 2010
42.	The Jammu and Kashmir Electricity (Duty) Act, 1963.	XI of 1963
43.	The Jammu and Kashmir Employees Provident Funds (And) Miscellaneous Provisions Act, 1961.	XV of 1961
44.	The Jammu and Kashmir Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 2010.	XIX of 2010
45.	The Jammu and Kashmir Energy Conservation Act, 2011.	XIV of 2011
46.	The Jammu and Kashmir Epidemic Diseases Act, 1920.	XVI of 1977
47.	(State) Evacuees (Administration of Property) (Validation of Orders, Proceedings and Acts) Act, 1958.	IV of 1958
48.	The Jammu and Kashmir Evidence Act, Samvat 1977 (1920 A.D.).	XIII of Svt. 1977
49.	The Jammu and Kashmir Fatal Accidents Act, Samvat 1977.	XVII of Svt. 1977
50.	The Jammu and Kashmir Forest Act, Samvat 1987.	II of Svt. 1987
51.	The Jammu and Kashmir Forest (Conservation) Act, 1997.	XXX of 1997
52.	The Jammu and Kashmir Forest (Sale of Timber) Act, Samvat 1987.	III of Svt. 1987
53.	The Jammu and Kashmir General Clauses Act, Samvat 1977.	XX of Svt. 1977
54.	The Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978.	VII of 1978
55.	Government Servants (Held in Detention) Act, 1956.	XV of 1956
56.	The Jammu and Kashmir Grant of Permit for Resettlement in (or Permanent Return to) the State Act, 1982.	X of 1982
57.	The Jammu and Kashmir Guardians and Wards Act, Samvat 1977.	XIX of Svt. 1977
58.	The Jammu and Kashmir Hindu Adoptions and Maintenance Act, 1960.	II of 1960
59.	The Jammu and Kashmir Hindu Disposition of Property Act, Samvat 1997.	XVI of Svt. 1997
60.	The Jammu and Kashmir Hindu Inheritance (Removal of Disabilities) Act, Samvat 1997.	XVIII of Svt. 1997
61.	The Jammu and Kashmir Hindu Marriage Act, 1980.	IV of 1980
62.	The Jammu and Kashmir Hindu Marriage (Validation of Proceedings) Act, 1963.	XVI of 1963

S.No.	Name of the Act	Act/Ordinance No.
63.	The Jammu and Kashmir Hindu Minority and Guardianship Act, 1957.	VII of 1957
64.	The Jammu and Kashmir Hindu Succession Act, 1956.	XXXVIII of 1956
65.	The Jammu and Kashmir Hindu Widows Remarriage and Property Act, Samvat 1989.	XXIX of Svt. 1989
66.	The Jammu and Kashmir Homeopathic Practitioner Act, 2003.	VIII of 2003
67.	The Jammu and Kashmir Identification of Prisoners Act, Samvat 1994.	IV of Svt. 1994
68.	The Jammu and Kashmir Infant Marriages Prevention Act, Samvat 1985.	I of Svt. 1985
69.	Instruments (Control of Noises) Act, 1959.	VII of 1959
70.	Judicial Officers Protection Act, 1971.	
71.	The Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act, 2013.	VII of 2013
72.	The Jammu and Kashmir Juvenile Smoking Act, Samvat 1986.	II of Svt. 1986
73.	Land Acquisition Act, Samvat 1990.	X of Svt. 1990
74.	Legal Practitioners (Fees) Act, Samvat 1988.	VII of Svt. 1988
75.	The Jammu and Kashmir Legal Representatives Suits Act, Samvat 1977.	XXII of Svt. 1977
76.	The Jammu and Kashmir Legal Services Authorities Act, 1997.	XXXIII of 1997
77.	The Jammu and Kashmir Limitation Act, Samvat 1995.	IX of Svt. 1995
78.	The Jammu and Kashmir Livestock Improvement Act, Samvat 1996.	XXIII of Svt. 1996
79.	The Jammu and Kashmir Local Authorities Loans Act, Samvat 1997.	VI of Svt. 1997
80.	The Jammu and Kashmir Lunacy Act, Samvat 1977.	XXV of Svt. 1997
81.	The Jammu and Kashmir Maintenance and Welfare of Parents and Senior Citizens Act, 2014.	XVI of 2014
82.	The Jammu and Kashmir Majority Act, Samvat 1977.	XXVI of Svt. 1977
83.	The Jammu and Kashmir Medical Registration Act, Samvat 1998.	IV of Svt. 1998
84.	The Jammu and Kashmir Medical Termination of Pregnancy Act, 1974.	XXIII of 1974
85.	The Jammu and Kashmir Muslim Dower Act, Samvat 1977.	XLIV of Svt. 1977
86.	The Jammu and Kashmir Muslim Personal Law (Shariat) Application Act, 2007.	IV of 2007
87.	The Jammu and Kashmir Muslim Specified Wakafs and Specified Wakaf Properties (Management and Regulation) Act, 2004.	VIII of 2004
88.	The Jammu and Kashmir Nationalization of Forest Working Act, 1987.	VII of 1987
89.	(State) Newspapers (Incitements to Offences) Act, Svt 1971.	VIV of Svt. 1971
90.	The Jammu and Kashmir Nursing Council Act, 2012.	IV of 2012
91.	The Jammu and Kashmir Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1963.	XXXIX of 1963
92.	Official Secrets Act, Samvat 1977.	XLIII of Svt. 1977
93.	Opium Smoking Act, Samvat 2011.	XXXII of Svt. 2011
94.	Essential Services (Maintenance) Ordinance, Samvat 2001.	IX of Svt. 2001
95.	Hoarding and Profiteering Prevention Ordinance, Samvat 2000.	XIX of Svt. 2000

S.No.	Name of the Act	Act/Ordinance No.
96.	Police Enhanced Penalties Ordinance, Samvat 2005.	III of Svt. 2005
97.	Prevention of Corruption Ordinance, 2001.	IV of Svt. 2001
98.	The Jammu and Kashmir Public Servants Transfer of Immovable Property (Restriction) Ordinance, 2004.	XXX of Svt. 2004
99.	The Jammu and Kashmir Partition Act, Samvat 1977.	XXX of Svt. 1977
100.	The Jammu and Kashmir Partnership Act, Samvat 1996.	V of Svt. 1996
101.	The Jammu and Kashmir Permanent Residents Certificate (Procedure) Act, 1963.	XIII of 1963
102.	The Jammu and Kashmir Pharmacy Act, Samvat 2011.	LIII of Svt. 2011
103.	The Jammu and Kashmir Poisons Act, Samvat 1977.	XXXIV of Svt. 1977
104.	The Jammu and Kashmir Preconception and Prenatal Sex Selection (Prohibition and Regulation) Act, 2002.	XXXI of 2002
105.	(State) Press and Publications Act, Svt 1989.	I of Svt. 1989
106.	The Jammu and Kashmir Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1988.	XXV of 1988
107.	The Jammu and Kashmir Prevention of Corruption Act, Samvat 2006.	XIII of Svt. 2006
108.	The Jammu and Kashmir Prevention of Cruelty to Animals Act, Samvat 1990.	XIII of Svt. 1990
109.	The Jammu and Kashmir Prevention of Defacement of Property Act, 1985.	XIX of 1985
110.	The Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.	XXIII of 1988
111.	The Jammu and Kashmir Prevention of Insult to State Honour Act, 1979.	X of 1979
112.	The Jammu and Kashmir Prisoners Act, Svt 1977.	XXXIII of Svt. 1977
113.	The Jammu and Kashmir Prisons Act, Svt 1977.	XXXI of Svt. 1977
114.	The Jammu and Kashmir Private Security Agencies (Regulation) Act, 2015.	IX of 2015
115.	The Jammu and Kashmir Prize Competition Act, 1956.	XII of 1956
116.	The Jammu and Kashmir Probation of Offenders Act, 1966.	XXXVII of 1966
117.	The Jammu and Kashmir Protection of Human Rights Act, 1997.	XV of 1997
118.	The Jammu and Kashmir Protection of Women from Domestic Violence Act, 2010.	XI of 2010
119.	The Jammu and Kashmir Provident Funds Act, Svt 1998.	XXII of Svt. 1998
120.	The Jammu and Kashmir Public Gambling Act, Svt 1977.	XVIII of Svt. 1977
121.	The Jammu and Kashmir Public Property (Prevention of Damage) Act, 1985.	XX of 1985
122.	The Jammu and Kashmir Public Servants (Inquiries) Act, Svt 1977.	XXVIII of Svt. 1977
123.	(State) Ranbir Penal Code, Samvat 1989.	XII of Svt. 1989
124.	The Jammu and Kashmir Registration Act, Svt. 1977.	XXXV of Svt. 1977
125.	The Jammu and Kashmir Registration (Amendment and Validation of Transfers of property) Act, 1955.	VI of 1955
126.	Registration of Deeds (Validating) Act, Samvat 2008.	VI of Svt. 2008
127.	Registration of Deeds (Validation) Act, 1956.	XXI of 1956

S.No.	Name of the Act	Act/Ordinance No.
128.	Registration of Deeds (Validating) Act, 1968.	XXXIII of 1968
129.	Registration of Deeds (Validation) Act, 1976.	I of 1976
130.	Registration of Deeds (Validation) Act, 1985.	IX of 1985
131.	The Jammu and Kashmir Religious Endowments Act, Svt 1977.	L of Svt. 1977
132.	The Jammu and Kashmir Representation of the People Act, 1957.	IV of 1957
133.	The Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968.	XXXV of 1968
134.	The Jammu and Kashmir Right to Information Act, 2009.	VIII of 2009
135.	The Jammu and Kashmir Sale of Goods Act, Svt 1996.	II of 1996
136.	Separation of Judicial and Executive Functions Act, 1966.	XL of 1966
137.	The Jammu and Kashmir Small Causes Court Act, Svt 1968.	
138.	Societies Registration Act, Svt 1998.	VI of Svt. 1998
139.	The Jammu and Kashmir Specific Relief Act, Svt 1977.	XXXVIII of Svt. 1977
140.	The Jammu and Kashmir Standards of Weights and Measures (Enforcement) Act, 1997.	XXXVII of 1997
141.	The Jammu and Kashmir Succession Certificate Act, Svt 1977.	XXXIX of Svt. 1977
142.	Succession (Property Protection) Act, Svt 1977.	XXXVI of Svt. 1977
143.	The Jammu and Kashmir Suits Valuation Act, Svt 1977.	XXXVII of Svt. 1977
144.	The Jammu and Kashmir Suppression of Indecent Advertisements Act, Svt 2003.	IX of Svt. 2003
145.	The Jammu and Kashmir Transfer of Property Act, Svt 1977.	XLII of Svt. 1977
146.	The Jammu and Kashmir Transplantation of Human Organs Act, 1997.	III of 1997
147.	The Jammu and Kashmir Trusts Act, Svt 1977.	XLI of Svt. 1977
148.	The Jammu and Kashmir Venereal Diseases Act, Svt 2000.	XXI of Svt. 2000
149.	Veterinary Council Act, 2001.	XXI of 2001
150.	The Jammu and Kashmir [State] Village and Town Patrol Act, 1959.	XXIV of 1959
151.	The Jammu and Kashmir Village Sanitation Act, Svt. 1990.	V of Svt. 1990
152.	The Jammu and Kashmir Wakafs Act, 2001.	III of 2001
153.	The Jammu and Kashmir Wildlife (Protection) Act, 1978.	VIII of 1978

S.No.	Name of the Governor's Act	Governor's Act No.
1.	The Jammu and Kashmir State Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 2018.	VI of 2018
2.	The Jammu and Kashmir Drugs and Magic Remedies (Objectionable Advertisements) Act, 2018.	VIII of 2018
3.	The Jammu and Kashmir Single Window (Industrial Investment and Business Facilitation) Act, 2018.	X of 2018
4.	The Jammu and Kashmir Commercial Courts Act, 2018.	XIII of 2018
5.	The Jammu and Kashmir Family Courts Act, 2018.	XXIV of 2018
6.	The Jammu and Kashmir Aadhar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2018.	XXXIV of 2018
7.	The Jammu and Kashmir Protection of Children From Sexual Violence Act, 2018.	II of 2018
8.	The Jammu and Kashmir Rights of Persons with Disabilities Act, 2018.	XL of 2018
9.	The Jammu and Kashmir Prohibition of Benami Property Transactions Act, 2018.	XLIII of 2018
10.	The Jammu and Kashmir State Commission for Protection of Women and Child Rights Act, 2018.	XLVI of 2018
11.	The Jammu and Kashmir Real Estate (Regulation and Development) Act, 2018.	LIII of 2018

TABLE-4

STATE ACTS INCLUDING GOVERNOR'S ACTS THAT SHALL REMAIN IN FORCE IN
UNION TERRITORY OF JAMMU AND KASHMIR; AND UNION TERRITORY OF LADAKH

S.No.	Name of the Act	Act/Ordinance No.
1.	The Jammu and Kashmir Aerial Ropeways Act, 2002	XII of 2002
2.	The Jammu and Kashmir Agrarian Reforms Act, 1976	XVII of 1976
3.	Agriculturists' Relief Act, Svt. 1983	I of Svt. 1983
4.	The Jammu and Kashmir Government Aid to Agriculturists and Land Improvement Act, Svt. 1993	VII of Svt. 1993
5.	The Jammu and Kashmir State Aid to Industries Act 1961	XXII of 1961
6.	The Jammu and Kashmir Alienation of Land Act, Svt. 1995	V of Svt. 1995
7.	The Jammu and Kashmir Anatomy Act, 1959	XXII of 1959
8.	The Jammu and Kashmir Ancient Monuments Preservation Act, Svt. 1977	V of Svt. 1977
9.	The Jammu and Kashmir Baba Ghulam Shah Badshah University Act, 2002	XVI of 2002
10.	The Jammu and Kashmir Big Landed Estates Abolition Act, Svt. 2007	XVII of Svt. 2007
11.	The Jammu and Kashmir Board of Professional Entrance Examination Act, 2002	XXV of 2002
12.	The Jammu and Kashmir Board of School Education Act, 1975	XXVIII of 1975
13.	The Jammu and Kashmir State Board of Technical Education Act, 2002	XXIV of 2002
14.	The Jammu and Kashmir Brick Kilns (Regulation) Act, 2010	XV II of 2010
15.	Camping and Mooring Sites Act, Svt. 2004	XII of Svt. 2004
16.	The Jammu and Kashmir Chowkidari Act, 1956	XXXVII of 1956
17.	The Jammu and Kashmir Civic Laws (Special Provisions) Act, 2014	III of 2014
18.	The Jammu and Kashmir Civil Courts Act, Svt. 1977	XLVI of Svt. 1977
19.	The Jammu and Kashmir Civil Services (Decentralization and Recruitment) Act, 2010	XVI of 2010
20.	The Jammu and Kashmir Civil Services (Special Provisions) Act, 2010	XIV of 2010
21.	The Srinagar and Jammu Cluster Universities Act, 2016.	III of 2016
22.	The Jammu and Kashmir State Commission for Backward Classes Act, 1997	XII of 1997
23.	The Jammu and Kashmir Common Lands (Regulation) Act, 1956	XXIV of 1956
24.	The Jammu and Kashmir Consolidation of Holdings Act, 1962	V of 1962
25.	The Jammu and Kashmir Control of Building Operations Act, 1988	XV of 1988
26.	The Jammu and Kashmir Cooperative Societies Act, 1989.	X of 1989
27.	The Jammu and Kashmir Debtors Relief Act, 1976	XV of 1976
28.	The Jammu and Kashmir Delivery of Books and Newspapers (Public Libraries) Act, 1961	XIII of 1961
29.	The Jammu and Kashmir Deputy Ministers' Salaries and Allowances Act, 1957	VI of 1957

S.No.	Name of the Act	Act/Ordinance No.
30.	The Jammu and Kashmir Deputy Speaker's and Deputy Chairman's (Emoluments) Act, 1956	XXII of 1956
31.	The Jammu and Kashmir Development Act, 1970	XIX of 1970
32.	The Jammu and Kashmir Egress and Internal Movement (Control) Ordinance, Svt. 2005.	V of Svt. 2005
33.	The Jammu and Kashmir Enemy Agents Ordinance, Svt. 2005.	VIII of Svt. 2005
34.	The Jammu and Kashmir State Emergency Relief Fund Act, 1960	XIII of 1960
35.	The Jammu and Kashmir Excise Act, Samvat 1958	--
36.	The Jammu and Kashmir Extraction of Resin Act, 1988.	IX of 1988
37.	The Jammu and Kashmir State Evacuees (Administration of Property) Act, Samvat 2006 (1949 A.D).	VI of Svt. 2006
38.	The Jammu and Kashmir Ferry Boats Control Act, 1971.	XVIII of 1971
39.	The Jammu and Kashmir State Finance Commission Act, 2006	XVIII of 2006
40.	The Jammu and Kashmir Finance Commission for Panchayats and Municipalities Act, 2011	XVI of 2011
41.	The Jammu and Kashmir Fire Force Act, 1967.	XXII of 1967
42.	The Jammu and Kashmir Fiscal Responsibility and Budget Management Act, 2006.	XII of 2006
43.	The Jammu and Kashmir Fisheries Act, 2018.	XVI of 2018
44.	The Jammu and Kashmir Flood Plain Zones (Regulation and Development) Act, 2005.	XVII of 2005
45.	The Jammu and Kashmir State Forest Corporation Act, 1978.	XII of 1978
46.	The Jammu and Kashmir Forest (Protection) Force Act, 2001.	VI of 2001
47.	The Jammu and Kashmir Fruit Nurseries (Licensing) Act, 1987.	XXII of 1987
48.	The Jammu and Kashmir Gift Goods (Unlawful Possession) Act, 1963.	XL of 1963
49.	The Jammu and Kashmir Golf Development and Management Authority Act, 2013.	VIII of 2013
50.	The Jammu and Kashmir Goods and Services Tax Act, 2017.	V of 2017
51.	The Jammu and Kashmir Government Gazette Act, Svt. 1945.	XII of Svt. 1945
52.	The Jammu and Kashmir Governor's Special Security Force Act, 2018	Governors Act No. XLII of 2018
53.	The Jammu and Kashmir Habitual Offenders (Control and Reform) Act, 1956.	XI of 1956
54.	The Jammu and Kashmir Handicrafts (Quality Control) Act, 1978.	IV of 1978
55.	The Jammu and Kashmir Heritage Conservation and Preservation Act, 2010.	XV of 2010
56.	The Jammu and Kashmir Highways Act, Svt. 2007.	XXVII of Svt. 2007
57.	The Jammu and Kashmir Home Guards Act, Svt. 2006.	III of Svt. 2006
58.	The Jammu and Kashmir Housing Board Act, 1976.	VII of 1976
59.	The Jammu and Kashmir Industrial Establishments (National and Festival) Holidays Act, 1974.	XIII of 1974
60.	The Jammu and Kashmir Inspector General of Prisons (Change in Designation) Act, 2001.	XIII of 2001

S.No.	Name of the Act	Act/Ordinance No.
61.	The Jammu and Kashmir Islamic University of Science and Technology Kashmir Act, 2005.	XVIII of 2005
62.	The Jammu and Kashmir Kahcharai Act, Svt. 2011.	XVIII of Svt. 2011
63.	Kashmir and Jammu Universities Act, 1969.	XXIV of 1969
64.	Kashmir Silk Protection Act, 1964.	
65.	The Jammu and Kashmir Khadi and Village Industries Board Act, 1965.	XVI of 1965
66.	Ladakh Autonomous Hill Development Council Act, 1997.	XXXI of 1997
67.	Ladakh Buddhists Succession to Property Act, Svt. 2000.	XVIII of Svt. 2000
68.	The Jammu and Kashmir Lambardari Act, 1972.	X of 1972
69.	The Jammu and Kashmir Land Grants Act, 1960.	XXXVIII of 1960
70.	The Jammu and Kashmir Land Improvement Schemes Act, 1972.	XXIV of 1972
71.	The Jammu and Kashmir Land Revenue Act, Svt. 1996.	XII of Svt. 1996
72.	The Jammu and Kashmir Legislative Assembly Speaker's Emoluments Act, 1956.	IV of 1956
73.	The Jammu and Kashmir Legislative Council Chairman's (Emoluments) Act, 1962.	XXVIII of 1962
74.	The Jammu and Kashmir State Legislature Members' Pension Act, 1984.	II of 1984
75.	The Jammu and Kashmir Legislature (Prevention of Disqualification) Act, 1962.	XVI of 1962
76.	The Jammu and Kashmir State Legislature Proceedings (Protection of Publication) Act, 1960.	XXXVII of 1960
77.	Levy of Tolls Act, Svt. 1995.	VIII of Svt. 1995
78.	The Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997.	XVI of 1997
79.	The Jammu and Kashmir Migrants (Stay of Proceedings) Act, 1997.	XVII of 1997
80.	The Jammu and Kashmir Ministers and Ministers of State Salaries Act, 1956.	VI of 1956
81.	The Jammu and Kashmir Ministers and Presiding Officers Medical Facilities Act, 1975.	XXII of 1975
82.	The Jammu and Kashmir Money Lenders and Accredited Loan Providers Act, 2010.	XXIII of 2010
83.	The Jammu and Kashmir Motor Spirit and Diesel Oil (Taxation of Sales) Act, Svt. 2005.	V of Svt. 2005
84.	The Jammu and Kashmir Motor Vehicles Taxation Act, 1957.	XXVI of 1957
85.	The Jammu and Kashmir Mulberry Protection Act, Svt. 2006.	X of Svt. 2006
86.	The Jammu and Kashmir Municipal Act, 2000.	XX of 2000
87.	The Jammu and Kashmir Municipal Corporation Act, 2000.	XXI of 2000
88.	The Jammu and Kashmir Municipal Ombudsman Act, 2010.	XX of 2010
89.	The Jammu and Kashmir Municipalities Public Disclosure Act, 2010.	XXIV of 2010
90.	The Jammu and Kashmir Muslim Marriages Registration Act, 1981.	XXII of 1981
91.	The Jammu and Kashmir Namdha Quality Control Act, Svt. 2010.	VI of Svt. 2010
92.	National Defence Fund Donation of Immovable Property (Exemption from Stamp Duty and Registration) Act, 1963.	V of 1963

S.No.	Name of the Act	Act/Ordinance No.
93.	The Jammu and Kashmir Natural Calamities Destroyed Areas Improvement Act, Svt. 2011.	XXXVIII of Svt. 2011
94.	The Jammu and Kashmir Non-Biodegradable Material (Management) Handling and Disposal Act, 2007.	XII of 2007
95.	The Jammu and Kashmir Obsolete Laws (Repeal) Act, 2010.	XXVII of 2010
96.	The Jammu and Kashmir Ombudsman for Panchayats Act, 2014.	V of 2014
97.	The Jammu and Kashmir Panchayati Raj Act, 1989.	IX of 1989
98.	The Jammu and Kashmir Paramedical Council Act, 2014.	VII of 2014
99.	The Jammu and Kashmir Passengers Taxation Act, 1963.	XII of 1963
100.	The Jammu and Kashmir Plant Disease and Pests Act, 1973.	XIV of 1973
101.	Plyboard Industries (Acquisition of Shares and of the Industrial Undertakings) Act, 1987.	VI of 1987
102.	Police Act, Svt. 1983.	II of Svt. 1983
103.	The Jammu and Kashmir Preservation of Specified Trees Act, 1969	V of 1969
104.	The Jammu and Kashmir Prevention of Beggary Act, 1960.	XL of 1960
105.	The Jammu and Kashmir Prevention of Fragmentation of Agricultural Holdings Act, 1960.	XXV of 1960
106.	Prevention of Ribbon Development Act, Svt. 2007.	XXVI of Svt. 2007
107.	Prevention of Rum Rasam Act, Svt. 1997.	I of Svt. 1997
108.	The Jammu and Kashmir Prevention and Suppression of Sabotages Activities Act, 1965.	XXII of 1965
109.	The Jammu and Kashmir Prevention of Unfair Means Examination Act, 1987.	XX of 1987
110.	The Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002	XXII of 2002
111.	Probate and Administration Act, Svt. 1977.	XXIX of Svt. 1977
112.	The Jammu and Kashmir Professions, Trades, Callings and Employment Tax Act, 2005.	IX of 2005
113.	The Jammu and Kashmir Prohibition on Conversion of Land and Alienation of Orchards Act, 1975.	VIII of 1975
114.	The Jammu and Kashmir Prohibition on Manufacture of Specified Copper Utensils (By Machine) Act, 2006.	XIII of 2006
115.	The Jammu and Kashmir Prohibition of Ragging Act, 2011.	VI of 2011
116.	The Jammu and Kashmir State Prohibition of Smoking (Cinema and Theatre Halls) Act, Svt. 2009.	XVIII of Svt. 2009
117.	The Jammu and Kashmir Prohibition of Smoking and Non-Smokers Health Protection in Public Service Vehicles Act, 1997.	XX of 1997
118.	The Jammu and Kashmir Property Rights to Slum Dwellers Act, 2012.	XI of 2012
119.	The Jammu and Kashmir Property Tax Board Act, 2013.	XI of 2013
120.	The Jammu and Kashmir Protection of Interest of Depositors (in Financial Establishments) Act, 2018.	XIII of 2018

S.No.	Name of the Act	Act/Ordinance No.
121.	The Jammu and Kashmir Public Men and Public Servants Declaration of Assets and Other Provisions Act, 1983.	V of 1983
122.	The Jammu and Kashmir Public Premises (Eviction of Un-authorised Occupants) Act, 1988.	XVII of 1988
123.	The Jammu and Kashmir Public Safety Act, 1978.	VI of 1978
124.	The Jammu and Kashmir Public Services Guarantee Act, 2011.	IX of 2011
125.	The Jammu and Kashmir Registration of Contractors Act, 1956.	XVI of 1956
126.	The Jammu and Kashmir Registration of Tourist Trade Act, 1978.	IX of 1978
127.	The Jammu and Kashmir Regulation of Accounts Act, Svt. 2001.	XIV of Svt. 2001
128.	The Jammu and Kashmir Reservation Act, 2004.	XIV of 2004
129.	The Jammu and Kashmir Residential and Commercial Tenancy Act, 2012.	V of 2012
130.	The Jammu and Kashmir Restitution of Mortgaged Properties Act, 1976.	XIV of 1976
131.	The Jammu and Kashmir Right of Prior Purchase Act, Svt. 1993.	II of Svt. 1993
132.	The Jammu and Kashmir Road Safety Council Act, 2018.	V of 2018
133.	The Jammu and Kashmir Saffron Act, 2007.	V of 2007
134.	Salaries and Allowances of Members of Jammu and Kashmir State Legislature Act, 1960.	XIX of 1960
135.	Salaries and Allowances of Leader of Opposition in the State Legislature Act, 1985.	XVI of 1985
136.	The Sapphire Act, Svt. 1989.	XVI of Svt. 1989
137.	The Jammu and Kashmir School Education Act, 2002.	XXI of 2002
138.	The Jammu and Kashmir Self-Reliant Cooperatives Act, 1999.	X of 1999
139.	The Jammu and Kashmir State Sheep and Sheep Products Development Board Act, 1979.	IX of 1979
140.	Sher-i-Kashmir University of Agricultural Sciences and Technology Act, 1982.	VII of 1982
141.	Sher-i-Kashmir Institute of Medical Sciences (Grant of Degrees) Act, 1983.	XII of 1983
142.	The Jammu and Kashmir Shri Amarnath Ji Shrine Act, 2000.	XVIII of 2000
143.	The Jammu and Kashmir Shri Mata Sukhrala Devi Ji and Shri Mata Bala Sundari Shrine Act, 2013.	III of 2013
144.	The Jammu and Kashmir Shri Mata Vaishno Devi Shrine Act, 1988.	XVI of 1988
145.	The Jammu and Kashmir Shri Mata Vaishno Devi University Act, 1999.	XII of 1999
146.	The Jammu and Kashmir Shri Shiv Khori Shrine Act, 2008.	IV of 2008
147.	The Jammu and Kashmir Sikh Gurdwaras and Religious Endowments Act, 1973.	XV of 1973
148.	The Jammu and Kashmir Silk (Development and Protection) Act, 1988.	XXVIII of 1988
149.	The Jammu and Kashmir Special Security Group Act, 2000.	VI of 2000
150.	The Jammu and Kashmir Special Tribunal Act, 1988.	XIX of 1988
151.	Stamp Act, Svt. 1977.	XL of Svt. 1977
152.	The Jammu and Kashmir Tenancy Act, Svt. 1980.	II of Svt. 1980

S.No.	Name of the Act	Act/Ordinance No.
153.	The Jammu and Kashmir Tenancy (Stay of Ejectment Proceedings) Act, 1966.	XXXIII of 1966
154.	The Jammu and Kashmir State Town Planning Act, 1963.	XX of 1963
155.	The Jammu and Kashmir Treasure Trove Act, Svt. 1954.	---
156.	The Jammu and Kashmir Underground Public Utilities (Acquisition of Rights of User in Land) Act, 2014.	IV of 2014
157.	Urban Immovable Property Tax (Repeal and Saving) Act, 2002.	XXVIII of 2002
158.	The University of Ladakh Act, 2018.	Governor's Act No. LVI of 2018
159.	The Jammu and Kashmir Urban Property (Ceiling) Act, 1971.	XII of 1971
160.	Usurious Loans Act, Svt. 1977.	XLVII of Svt. 1977
161.	The Jammu and Kashmir Utilization of Lands Act, Svt. 2010.	IX of Svt. 2010
162.	The Jammu and Kashmir Vaccination Act, 1967.	XXI of 1967
163.	The Jammu and Kashmir Vegetable Seeds Act, Svt. 2009.	XII of Svt. 2009
164.	The Jammu and Kashmir State Vigilance Commission Act, 2011.	I of 2011
165.	The Jammu and Kashmir Water Resources (Regulation and Management) Act, 2010.	XXI of 2010
166.	The Jammu and Kashmir Willow (Prohibition on Export and Movement) Act, 2000.	XVI of 2000

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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Annexure-P4Section 6 of the Government of India Act, 1935

6. Accession of Indian States

(1) A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of an Instrument of Accession executed by the Ruler thereof, whereby the Ruler for himself, his heirs, and successors--

(a) declares that he accedes to the Federation as established under this Act, with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act; and

(b) assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his Instrument of Accession:

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

(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the federal Legislature make laws for his State, and the limitations, if any, to which the power of the Federal Legislature to make laws for

his State, and the exercise of the executive authority of the Federation in his State, are respectively to be subject.

(3) A Ruler may, by a supplementary Instrument executed by him and accepted by His Majesty, vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by His Majesty or any Federal Authority in relation to his State.

(4) Nothing in this section shall be construed as requiring His Majesty to accept any Instrument of Accession or supplementary Instrument unless he considers it proper so to do, or as empowering His Majesty to accept any such Instrument if it appears to him that the terms thereof are inconsistent with the scheme of Federation embodied in this Act:

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

(5) It shall be a term of every Instrument of Accession that the provisions of this Act mentioned in the Second Schedule thereto, may, without affecting the accession of the State, be amended by or by authority of Parliament, but not such amendment shall, unless it is accepted by the Ruler in a supplementary Instrument, be construed as extending the functions which by virtue of the Instrument are exercisable by His Majesty or any Federal Authority in relation to the State.

(6) An Instrument of Accession or supplementary Instrument shall not be valid unless it is executed by the Ruler himself, but, subject as aforesaid, references in this Act to the Ruler of a State include references to any persons for the time being

exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

(7) After the establishment of the Federation the request of a Ruler that his State may be admitted to the Federation shall be transmitted to His Majesty through the Governor-General, and after the expiration of twenty years from the establishment of the Federation the Governor-General shall not transmit to His Majesty any such request until there has been presented to him by each Chamber of the Federal Legislature, for submission to His Majesty, an address praying that His Majesty may be pleased to admit the State into the Federation.

(8) In this Act a State which has acceded to the Federation is referred to as a Federated State, and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(9) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by His Majesty under this section, copies of the Instrument, and of His Majesty's Acceptances thereof shall be laid before Parliament, and all courts shall take judicial notice of every such Instrument and Acceptance.

// True Typed Copy //

Indian Independence Act, 1947.

10 & 11 GEO. 6. CH. 30.

ANNEXURE-P5

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ARRANGEMENT OF SECTIONS.

Section.

1. The new Dominions.
2. Territories of the new Dominions.
3. Bengal and Assam.
4. The Punjab.
5. The Governor-General of the new Dominions.
6. Legislation for the new Dominions.
7. Consequences of the setting up of the new Dominions.
8. Temporary provision as to government of each of the new Dominions.
9. Orders for bringing this Act into force.
10. Secretary of State's services, etc.
11. Indian armed forces.
12. British forces in India.
13. Naval forces.
14. Provisions as to the Secretary of State and the Auditor of Indian Home Accounts.
15. Legal proceedings by and against the Secretary of State.
16. Aden.
17. Divorce jurisdiction.
18. Provisions as to existing laws, etc.
19. Interpretation, etc.
20. Short title.

SCHEDULES :

First Schedule—Bengal Districts provisionally included in the new Province of East Bengal.

Second Schedule—Districts provisionally included in the new Province of West Punjab.

Third Schedule—Modifications of Army Act and Air Force Act in relation to British forces.



CHAPTER 30.

An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions.

[18th July 1947.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions", and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day".

2.—(1) Subject to the provisions of subsections (3) and (4) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under subsection (2) of this section, are to be the territories of Pakistan.

(2) Subject to the provisions of subsections (3) and (4) of this section, the territories of Pakistan shall be—

(a) the territories which, on the appointed day, are included in the Provinces of East Bengal and West Punjab, as constituted under the two following sections;

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- (b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan; and
 - (c) if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the North West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.
- (3) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that—
- (a) no area not forming part of the territories specified in subsection (1) or, as the case may be, subsection (2), of this section shall be included in either Dominion without the consent of that Dominion; and
 - (b) no area which forms part of the territories specified in the said subsection (1) or, as the case may be, the said subsection (2), or which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion.
- (4) Without prejudice to the generality of the provisions of subsection (3) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions.

Bengal and
Assam.26 Geo. 5 &
1 Edw. 8. c. 2.

3.—(1) As from the appointed day—

- (a) the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist; and
- (b) there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

(2) If, whether before or after the passing of this Act, but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the District of Sylhet are in favour of that District forming part of the new Province of East Bengal, then, as from that day, a part of the Province of Assam shall, in accordance with the provisions of subsection (3) of this section, form part of the new Province of East Bengal.

(3) The boundaries of the new Provinces aforesaid and, in the event mentioned in subsection (2) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

- (a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in subsection (2) of this section, the Assam District of Sylhet, shall be treated as the territories which are to be comprised in the new Province of East Bengal;
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories which are to be comprised in the new Province of West Bengal; and
- (c) in the event mentioned in subsection (2) of this section, the District of Sylhet shall be excluded from the Province of Assam.

(4) In this section, the expression "award" means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

4.—(1) As from the appointed day—

The Punjab.

- (a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist; and
- (b) there shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined—

- (a) the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of West Punjab; and
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

(3) In this section, the expression "award," means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

5. For each of the new Dominions, there shall be a Governor-General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion.

The Governor-General of the new Dominions.

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

Legislation
for the new
Dominions,

6.—(1) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(2) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the Dominion.

(3) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until the signification of His Majesty's pleasure thereon shall not apply to laws of the Legislature of either of the new Dominions.

(4) No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(5) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

(6) The power referred to in subsection (1) of this section extends to the making of laws limiting for the future the powers of the Legislature of the Dominion.

Consequences
of the setting
up of the new
Dominions.

7.—(1) As from the appointed day—

- (a) His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;
- (b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions

exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and

- (c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indiae Imperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

8.—(1) In the case of each of the new Dominions, the powers Temporary of the Legislature of the Dominion shall, for the purpose of provision as making provision as to the constitution of the Dominion, be to government exercisable in the first instance by the Constituent Assembly of each of the new of that Dominion, and references in this Act to the Legislature Dominions. of the Dominion shall be construed accordingly.

(2) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under subsection (1) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935; and the provisions of that Act, and of the Orders in Council, rules and other instruments made thereunder, shall, so far as applicable, and subject to any express provisions of this Act, and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly:

Provided that—

- (a) the said provisions shall apply separately in relation to each of the new Dominions and nothing in this subsection shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions;
 - (b) nothing in this subsection shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof;
 - (c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day;
 - (d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty thereunder; and
 - (e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion in addition to the powers exercisable by that Assembly under subsection (1) of this section.
- (3) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by subsection (2) of this section and the orders therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of subsection (1) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future the powers of that Legislature.

Orders for
bringing this
Act into force.

9.—(1) The Governor-General shall by order make such provision as appears to him to be necessary or expedient—

- (a) for bringing the provisions of this Act into effective operation;
- (b) for dividing between the new Dominions, and between the new Provinces to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist;

- (c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions;
- (d) for removing difficulties arising in connection with the transition to the provisions of this Act;
- (e) for authorising the carrying on of the business of the Governor-General in Council between the passing of this Act and the appointed day otherwise than in accordance with the provisions in that behalf of the Ninth Schedule to the Government of India Act, 1935;
- (f) for enabling agreements to be entered into, and other acts done, on behalf of either of the new Dominions before the appointed day;
- (g) for authorising the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of the said new Provinces, of services and activities previously carried on on behalf of British India as a whole or on behalf of the former Provinces which those new Provinces represent;
- (h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India; and
- (i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.

(2) The powers conferred by this section on the Governor-General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

(3) This section shall be deemed to have had effect as from the third day of June, nineteen hundred and forty-seven, and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date not earlier than the said third day of June.

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes any provision thereof retrospective to any date before the making thereof.

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(4) Any orders made under this section, whether before or after the appointed day, shall have effect—

- (a) up to the appointed day, in British India ;
- (b) on and after the appointed day, in the new Dominion or Dominions concerned ; and
- (c) outside British India, or, as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law or the Legislature of the Dominion or Dominions concerned would have on or after the appointed day,

but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.

(5) No order shall be made under this section, by the Governor of any Province, after the appointed day, or, by the Governor-General, after the thirty-first day of March, nineteen hundred and forty-eight, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of that Dominion.

(6) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the Province of Assam was to cease to exist on the appointed day and be reconstituted on that day as a new Province.

Secretary
of State's
services, etc.

10.—(1) The provisions of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force the provisions of that Act relating to appointments to the civil services of, and civil posts under, the Crown in India by the Secretary of State, or the provisions of that Act relating to the reservation of posts.

(2) Every person who—

- (a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or part thereof ; or
- (b) having been appointed by His Majesty before the appointed day to be a judge of the Federal Court or of any court which is a High Court within the meaning of the Government of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new Dominions,

shall be entitled to receive from the Governments of the Dominions and Provinces or parts which he is from time to time serving or,

as the case may be, which are served by the courts in which he is from time to time a judge, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of his office, or rights as similar thereto as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(3) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family pension funds vested in Commissioners under section two hundred and seventy-three of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before or after the passing of this Act or the appointed day) by a Secretary of State or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

9 & 10 Geo. 6.
c. 31.

11.—(1) The orders to be made by the Governor-General under the preceding provisions of this Act shall make provision for the division of the Indian armed forces of His Majesty between the new Dominions, and for the command and governance of those forces until the division is completed.

(2) As from the appointed day, while any member of His Majesty's forces, other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces—

(a) he shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any order of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the powers of command and punishment appropriate to his rank and functions; but

(b) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

12.—(1) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government in the United Kingdom, or of the Admiralty, the Army Council, or the Air Council or of any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or elsewhere in the territories which, before the appointed day, were included in India, not being Indian forces.

(2) In its application in relation to His Majesty's military forces, other than Indian forces, the Army Act shall have effect on or after the appointed day—

- (a) as if His Majesty's Indian forces were not included in the expressions "the forces", "His Majesty's forces" and "the regular forces"; and
- (b) subject to the further modifications specified in Parts I and II of the Third Schedule to this Act.

(3) Subject to the provisions of subsection (2) of this section, and to any provisions of any law of the Legislature of the Dominion concerned, all civil authorities in the new Dominions, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominions and in the other territories which were included in India before the appointed day, perform in relation to His Majesty's military forces, not being Indian forces, the same functions as were, before the appointed day, performed by them, or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision is to be made by orders of the Governor-General under the preceding provisions of this Act shall include the facilitating of the withdrawal from the new Dominions and other territories aforesaid of His Majesty's military forces, not being Indian forces.

(4) The provisions of subsections (2) and (3) of this section shall apply in relation to the air forces of His Majesty, not being Indian air forces, as they apply in relation to His Majesty's military forces, subject, however, to the necessary adaptations, and, in particular, as if—

- (a) for the references to the Army Act there were substituted references to the Air Force Act; and
- (b) for the reference to Part II of the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

Naval forces.

13.—(1) In the application of the Naval Discipline Act to His Majesty's naval forces, other than Indian naval forces, references to His Majesty's navy and His Majesty's ships shall not, as from the appointed day, include references to His Majesty's Indian navy or the ships thereof.

(2) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to Indian naval forces, references to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.

(3) In section ninety B of the Naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Navy and Royal Marines to the law and customs of the ships and naval forces of other parts of His Majesty's dominions) the words "or of India" shall be repealed as from the appointed day, wherever those words occur.

14.—(1) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorised to continue for the time being the performance, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of governments constituted or continued under the Government of India Act, 1935.

(2) The functions referred to in subsection (1) of this section include functions as respects the management of, and the making of payments in respect of, government debt, and any enactments relating to such debt shall have effect accordingly:

Provided that nothing in this subsection shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as aforesaid or as applying to the Government of either of the new Dominions the prohibition imposed on the Governor-General in Council by section three hundred and fifteen of the Government of India Act, 1935, as respects the contracting of sterling loans.

(3) As from the appointed day, there shall not be any such advisers of the Secretary of State as are provided for by section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act which require the Secretary of State to obtain the concurrence of his advisers, are hereby repealed as from that day.

(4) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as is mentioned in subsection (1) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in the same manner, as nearly as may be as he would have done if this Act had not passed.

15.—(1) Notwithstanding anything in this Act, and, in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorise legal proceedings to be taken, in India or elsewhere, by or against the Secretary of State in respect of

of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this Act, abate on the appointed day, so far as the Secretary of State is concerned.

(2) Subject to the provisions of this subsection, any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought—

(a) in the case of proceedings in the United Kingdom, by or against the High Commissioner;

(b) in the case of other proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned,

and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointed day shall be continued by or against the High Commissioner or, as the case may be, the person designated as aforesaid:

Provided that, at any time after the appointed day, the right conferred by this subsection to bring or continue proceedings may, whether the proceedings are by, or are against, the High Commissioner or person designated as aforesaid, be withdrawn by a law of the Legislature of either of the new Dominions so far as that Dominion is concerned, and any such law may operate as respects proceedings pending at the date of the passing of the law.

(3) In this section, the expression "the High Commissioner" means, in relation to each of the new Dominions, any such officer as may for the time being be authorised to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section three hundred and two of the Government of India Act, 1935; and any legal proceedings which, immediately before the appointed day, are the subject of an appeal to His Majesty in Council, or of a petition for special leave to appeal to His Majesty in Council, shall be treated for the purposes of this section as legal proceedings pending in the United Kingdom.

Aden.

16.—(1) Subsections (2) to (4) of section two hundred and eighty-eight of the Government of India Act, 1935 (which confer on His Majesty power to make by Order in Council provision for the government of Aden) shall cease to have effect and the British Settlements Acts, 1887 and 1945, (which authorise His

Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(2) Notwithstanding the repeal of the said subsections (2) to (4), the Orders in Council in force thereunder at the date of the passing of this Act shall continue in force, but the said Orders in Council, any other Orders in Council made under the Government of India Act, 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(3) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question, by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any courts which will, after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in question, and the last mentioned courts shall exercise their jurisdiction accordingly.

17.—(1) No court in either of the new Dominions shall, by Divorce virtue of the Indian and Colonial Divorce Jurisdiction Acts, jurisdiction. 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or by any law of the Legislature of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(2) Any rules made on or after the appointed day under subsection (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said subsection and of any rules in force thereunder immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(3) The reference in subsection (1) of this section to proceedings for a decree for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorised by section eight of the Matrimonial Causes Act, 1937.

^{16 & 17}
Geo. 5. c. 40.
^{1 Edw. 8 & 1}
Geo. 6. c. 57.

(4) Nothing in this section affects any court outside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's dominions as they apply to India shall be deemed to be power to apply those provisions as they would have applied to India if this Act had not passed.

Provisions as to existing laws, etc.

18.—(1) In so far as any Act of Parliament, Order in Council, order, rule, regulation or other instrument passed or made before the appointed day operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, taken together, or taken separately, according as the circumstances and subject matter may require:

Provided that nothing in this subsection shall be construed as continuing in operation any provision in so far as the continuance thereof as adapted by this subsection is inconsistent with any of the provisions of this Act other than this section.

(2) Subject to the provisions of subsection (1) of this section and to any other express provision of this Act, the Orders in Council made under subsection (5) of section three hundred and eleven of the Government of India Act, 1935, for adapting and modifying Acts of Parliament shall, except so far as Parliament may hereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(3) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof until other provision is made by laws of the Legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(4) It is hereby declared that the Instruments of Instructions issued before the passing of this Act by His Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(5) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of court shall not apply to any court in either of the new Dominions.

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19.—(1) References in this Act to the Governor-General shall, Interpretation, in relation to any order to be made or other act done on or after the appointed day, be construed—

- (a) where the order or other act concerns one only of the new Dominions, as references to the Governor-General of that Dominion;
- (b) where the order or other act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person; and
- (c) in any other case, as references to the Governors-General of the new Dominions, acting jointly.

(2) References in this Act to the Governor-General shall, in relation to any order to be made or other act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as requires references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(3) References in this Act to the Constituent Assembly of a Dominion shall be construed as references—

- (a) in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteen hundred and forty-six, modified—

- (i) by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan; and

- (ii) should it appear that the North West Frontier Province will form part of Pakistan, by the exclusion of the members representing that Province; and

- (iii) by the inclusion of members representing West Bengal and East Punjab; and

- (iv) should it appear that, on the appointed day, a part of the Province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members theretofore representing the Province of Assam and the inclusion of members chosen to represent the remainder of that Province;

- (b) in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan:

Provided that nothing in this subsection shall be construed as affecting the extent to which representatives of the Indian States take part in either of the said Assemblies, or as preventing the

filling of casual vacancies in the said Assemblies, or as preventing the participation in either of the said Assemblies, in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominion for which that Assembly sits, and the powers of the said Assemblies shall extend and be deemed always to have extended to the making of provision for the matters specified in this proviso.

(4) In this Act, except so far as the context otherwise requires—

references to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946 ;

9 & 10 Geo. 6.
c. 39.

"India", where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act, 1935 ;

"Indian forces" includes all His Majesty's Indian forces existing before the appointed day and also any forces of either of the new Dominions ;

"pension" means, in relation to any person, a pension whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund ;

"Province" means a Governor's Province ;

"remuneration" includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

(5) Any power conferred by this Act to make any order includes power to revoke or vary any order previously made in the exercise of that power.

Short title.

20. This Act may be cited as the Indian Independence Act, 1947.

SCHEDULES.FIRST SCHEDULE.

Section 3.

BENGAL DISTRICTS PROVISIONALLY INCLUDED IN THE
NEW PROVINCE OF EAST BENGAL.

In the Chittagong Division, the districts of Chittagong, Noakhali and Tippera.
In the Dacca Division, the districts of Bakarganj, Dacca, Faridpur and Mymensingh.
In the Presidency Division, the districts of Jessore, Murshidabad and Nadia.
In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

SECOND SCHEDULE.

Section 4.

DISTRICTS PROVISIONALLY INCLUDED IN THE NEW
PROVINCE OF WEST PUNJAB.

In the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhupura and Sialkot.
In the Rawalpindi Division, the districts of Attock, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur.
In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzaffargarh.

THIRD SCHEDULE.

Section 12.

MODIFICATIONS OF ARMY ACT AND AIR FORCE ACT IN
RELATION TO BRITISH FORCES.PART I.MODIFICATIONS OF ARMY ACT APPLICABLE ALSO TO AIR FORCE ACT.

1. The proviso to section forty-one (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new Dominions or in any of the other territories which were included in India before the appointed day.
2. In section forty-three (which relates to complaints), the words "with the approval of the Governor-General of India in Council" shall be omitted.
3. In subsections (8) and (9) of section fifty-four (which, amongst other things, require certain sentences to be confirmed by the Governor-General in Council), the words "India or", the words "by the

3RD SCH. Governor-General, or, as the case may be " and the words " in India,
—cont. by the Governor-General, or, if he has been tried " shall be omitted.

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4. In subsection (3) of section seventy-three (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words " with the approval of the Governor-General " shall be omitted.

5. The powers conferred by subsection (5) of section one hundred and thirty (which provides for the removal of insane persons) shall not be exercised except with the consent of the officer commanding the forces in the new Dominions.

6. In subsection (2) of section one hundred and thirty-two (which relates to rules regulating service prisons and detention barracks) the words " and in India for the Governor-General " and the words " the Governor-General " shall be omitted except as respects rules made before the appointed day.

7. In the cases specified in subsection (1) of section one hundred and thirty-four, inquests shall be held in all cases in accordance with the provisions of subsection (3) of that section.

8. In section one hundred and thirty-six (which relates to deductions from pay), in subsection (1) the words " India or " and the words " being in the case of India a law of the Indian legislature ", and the whole of subsection (2), shall be omitted.

9. In paragraph (4) of section one hundred and thirty-seven (which relates to penal stoppages from the ordinary pay of officers), the words " or in the case of officers serving in India the Governor-General " the words " India or " and the words " for India or, as the case may be " shall be omitted.

10. In paragraph (12) of section one hundred and seventy-five and paragraph (11) of section one hundred and seventy-six (which apply the Act to certain members of His Majesty's Indian Forces and to certain other persons) the word " India " shall be omitted wherever it occurs.

11. In subsection (1) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts martial) the words " India or " shall be omitted wherever they occur.

12. In the provisions of section one hundred and eighty-three relating to the reduction in rank of non-commissioned officers, the words " with the approval of the Governor-General " shall be omitted in both places where they occur.

PART II.

MODIFICATIONS OF ARMY ACT.

Section 184B (which regulates relations with the Indian Air Force) shall be omitted.

PART III.

3RD SCH.
—cont.

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MODIFICATIONS OF AIR FORCE ACT.

1. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces), the words "by the Air Council and the Governor-General of India or, as the case may be," and the words "India or", wherever those words occur, shall be omitted.
2. In section 184B (which regulates relations with Indian and Burma Air Forces) the words "India or" and the words "by the Air Council and the Governor-General of India or, as the case may be," shall be omitted.
3. Sub-paragraph (e) of paragraph (4) of section one hundred and ninety (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

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Annexure P-6

Letter Dated October 26, 1947 From Hari Singh, The Maharaja Of Jammu & Kashmir to Lord Mountbatten, Governor General of India.

Dated: 26 October 1947

My dear Lord Mountbatten,

I have to inform your Excellency that a grave emergency has arisen in my State and request immediate assistance of your Government.

As your Excellency is aware the State of Jammu and Kashmir has not acceded to the Dominion of India or to Pakistan. Geographically my State is contiguous to both the Dominions. It has vital economical and cultural links with both of them. Besides my State has a common boundary with the Soviet Republic and China. In their external relations the Dominions of India and Pakistan cannot ignore this fact.

I wanted to take time to decide to which Dominion I should accede, or whether it is not in the best interests of both the Dominions and my State to stand independent, of course with friendly and cordial relations with both.

I accordingly approached the Dominions of India and Pakistan to enter into Standstill Agreement with my State. The Pakistan Government accepted this Agreement. The Dominion of India desired further discussions with representatives of my Government. I could not arrange this in view of the developments indicated below. In fact the Pakistan Government are operating Post and Telegraph system inside the State.

Though we have got a Standstill Agreement with the Pakistan Government that Government permitted steady and increasing strangulation of supplies like food, salt and petrol to my State.

Afridis, soldiers in plain clothes, and desperadoes with modern weapons have been allowed to infiltrate into the State at first in Poonch and then in Sialkot and finally in mass area adjoining Hazara District on the Ramkot side. The result has been that the limited number of troops at the disposal of the State had to be dispersed and thus had to face the enemy at the several points simultaneously, that it has become difficult to stop the wanton destruction of life and property and looting. The Mahora powerhouse which supplies the electric current to the whole

of Srinagar has been burnt. The number of women who have been kidnapped and raped makes my heart bleed. The wild forces thus let loose on the State are marching on with the aim of capturing Srinagar, the summer Capital of my Government, as first step to over-running the whole State.

The mass infiltration of tribesmen drawn from distant areas of the North-West Frontier coming regularly in motor trucks using Mansehra-Muzaffarabad Road and fully armed with up-to-date weapons cannot possibly be done without the knowledge of the Provisional Government of the North-West Frontier Province and the Government of Pakistan. In spite of repeated requests made by my Government no attempt has been made to check these raiders or stop them from coming into my State. The Pakistan Radio even put out a story that a Provisional Government had been set up in Kashmir. The people of my State both the Muslims and non-Muslims generally have taken no part at all.

With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to free-booters. On this basis no civilized Government can exist or be maintained. This alternative I will never allow to happen as long as I am Ruler of the State and I have life to defend my country.

I am also to inform your Excellency's Government that it is my intention at once to set up an interim Government and ask Sheikh Abdullah to carry the responsibilities in this emergency with my Prime Minister.

If my State has to be saved immediate assistance must be available at Srinagar. Mr. Menon is fully aware of the situation and he will explain to you, if further explanation is needed.

In haste and with kind regards,

The Palace, Jammu

26th October, 1947

Your sincerely,

Hari Singh

ANNEXURE P-7

Instrument of Accession executed by Maharajah Hari Singh on October 26, 1947

Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act 1935, shall with such omissions, additions, adaptations and modifications as the Governor General may by order specify, be applicable to the Dominion of India.

And whereas the Government of India Act, 1935, as so adapted by the Governor General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof.

Now, therefore, I Shriman Inder Mahinder Raj rajeswar Maharaja dhiraj Shri Hari Singhji, Jammu & Kashmir Naresh TathaTibbetadi Deshahhipati, Ruler of Jammu & Kashmir State, in the exercise of my Sovereignty in and over my said State do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu & Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947, (which Act as so in force is hereafter referred to as "the Act").

2. I hereby assume the obligation of ensuring that due effect is given to provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept the matters specified in the schedule hereto as the matters with respect to which the Dominion Legislature may make law for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor General and the Ruler of this

State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of the State, then any such agreement shall be construed and have effect accordingly.

5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or the Indian Independence Act, 1947, unless such amendment is accepted by me by Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorizing the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense, or, if the land belongs to me transfer it to them on such terms as may be agreed or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit in any way to acceptance of any future constitution of India or to fetter my discretion to enter into agreement with the Government of India under any such future constitution.

8. Nothing in this Instrument affects the continuance of my Sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October, nineteen hundred and forty seven.

Hari Singh Maharajadhiraj of Jammu and Kashmir State.

ACCEPTANCE OF ACCESSION BY THE GOVERNOR GENERAL OF INDIA

I do hereby accept this Instrument of Accession. Dated this twenty seventh day of October, nineteen hundred and forty seven.

Mountbatten of Burma

Governor General of India.

**SCHEDULE OF INSTRUMENT OF ACCESSION
THE MATTERS WITH RESPECT TO WHICH THE DOMINION
LEGISLATURE MAY MAKE LAWS FOR THIS STATE**

A. Defence

1. The naval, military and air forces of the Dominion and any other armed forces raised or maintained by the Dominion; any armed forces, including forces raised or maintained by an acceding State, which are attached to, or operating with, any of the armed forces of the Dominion.
2. Naval, military and air force works, administration of cantonment areas.
3. Arms, fire-arms, ammunition.
4. Explosives.

B. External Affairs

1. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's Dominions outside India.
2. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India or subjects of any acceding State; pilgrimages to places beyond India.
3. Naturalisation.

C. Communications

1. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.
2. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and services terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.
3. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.
4. Port quarantine.
5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.
6. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

7. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.
8. Carriage of passengers and goods by sea or by air.
9. Extension of the powers and jurisdiction of members of the police force belonging to any unit to railway area outside that unit.

D. Ancillary

1. Election to the Dominion Legislature, subject to the provisions of the Act and of any Order made thereunder.
2. Offences against laws with respect to any of the aforesaid matters.
3. Inquiries and statistics for the purposes of any of the aforesaid matters.
4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the acceding State, not so as to confer any jurisdiction or powers upon any courts other than courts ordinarily exercising jurisdiction in or in relation to that State.

Article 306A

Mr. President : We go to 306A.

It is suggested that we had better begin the Preamble. It may be moved.

Shri T. T. Krishnamachari : It is not necessary to move it. The Preamble may be taken into consideration.

Mr. President : The Preamble is moved. I shall have to take up the various amendments to the Preamble now. I have a large number of amendments - many of them printed in the printed list.

Maulana HasratMohani (United Provinces : Muslim) : I understand that you have already decided that the Preamble will be taken up last. How is it that there are some articles remaining undiscussed and you pass to the Preamble?

Mr. President : Not many articles left.

Maulana Hasrat Mohani : Even one article - unless you finish the articles, you cannot take up the Preamble.

Mr. President : Very well, let us take up 306A.

The Honourable Shri Satyanarayan Sinha (Bihar : General): Sir, are you taking up the Preamble ?

Mr. President : No, Maulana hasratMohani objects to the Preamble being taken up before all the other articles are finished.

There is one more article of which notice was given and it has been standing over, amendment No. 472 by Mr. Naziruddin Ahmad. And I understand it is the same as another article of which notice was given by Pandi Thakur Das Bhargava.

Pandit Thakur Das Bhargava: Sir, it was held over on the 3rd June, by your order.

Mr. President : Then shall we take it up now? Which of them shall we take up. Mr. Nazirudding Ahmad's or that of Pandit Thakur Das Bhargava ?

Pandit Thakur Das Bhargava : Sir, I beg to move that.....

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Shri R. K. Sidhva : Sir, there are other articles also of which notice has been given by other Members.

Mr. President : There is no other amendment by the Drafting Committee.

Shri R. K. Sidhva : But there may be other Members who may have amendments besides these two.

Mr. President : Amendments for the addition of new articles ?

Shri R. K. Sidhva : Yes.

Mr. President : I do not think they will arise now.

Pandit Thakur Das Bhargava : Sir, I understand Shri GopalaswamiAyyangar has just come and so I may be allowed to move, after he has done.

Mr. President : There are so many articles of which notice was given and which are dropped now. We have dealt with the whole Constitution from every point of view and we cannot begin now taking up new articles. I know Pandit Thakur Das Bhargava's amendment was held over, but it has been covered by other amendments.

Pandit Thakur Das Bhargava : It is not covered, Sir.

Mr. President : Very well. We take up article 306A now. Mr. GopalaswamiAyyangar.

The Honourable Shri N. GopalaswamiAyyangar : (Madras : General) : Sir, before I read out the motion. I would request your permission, Sir, not to move item 379, but to move item 451 instead.

Sir, I move:

"That with reference to Amendment no.379 of List XV (Second Week), after article 306, the following new article be inserted:

'306A. (1) Notwithstanding anything contained in this Constitution,

(a) the provisions of article 211A of this Constitution shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for the State; and

(ii) such other matters in the said List as, with the concurrence of the Government of the State, the President may by order specify;

Explanation. - For the purposes of this article, the Government of the State means the person for the time being recognised by the Union as the Maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers..."

I am making, Sir, with your permission, a change here. Instead of the word "appointed" I am substituting the words, "for the time being in office" - "under the Maharaja's Proclamation, dated the fifth day of March, 1948."

Pandit Hirday Nath Kunzru : We could not hear the honourable member correctly.

The Honourable Shri N. GopalaswamiAyyangar :

"Explanation. - For the purposes of this article, the Government of the State means the person for the time being recognised by the Union as the Maharaja of Jammu and Kashmir, acting on the advice of the council of Ministers, for the time being in office, under the Maharaja's Proclamation, dated the fifth day of March, 1948."

I have there substituted the words "or the time being in office," for the word "appointed".

"(c) the provisions of article 1 of this Constitution shall apply in relation to the State.

(d) such of the other provisions of this Constitution and subject to such exceptions and modifications shall apply in relation to the State as the President may by order specify;

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State aforesaid shall be issued except in consultation with the Government of the State;

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in sub-clause (b) (ii) or in the second proviso to sub-clause (d) of clause (1) was given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the preceding clauses of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State shall be necessary before the President issues such a notification."

Sir, this matter, the matter of this particular motion, relates to the Jammu and Kashmir State. The House is fully aware of the fact that the State has acceded to the Dominion of India. The history of this accession is also well known. The accession took place on the 26th October, 1947. Since then, the State has had a chequered history. Conditions are not yet normal in the State. The meaning of this accession is that at present that State is a unit of a federal State, namely, the Dominion of India. This Dominion is getting transformed into a Republic, which will be inaugurated on the 26th January, 1950. The Jammu and Kashmir State, therefore, has to become a unit of the new Republic of India.

As the House is aware, accession to the Dominion always took place by means of an instrument which had to be signed by the Ruler of the State and which had to be accepted by the Governor-General of India. That has taken place in this case. As the House is also aware, Instruments of Accession will be a thing of past in the new Constitution. The States have been integrated with the Federal Republic in such a manner that they do not have to accede or execute a document of Accession for the purpose of becoming units of the Republic, but they are mentioned in the Constitution itself; and, in the case of practically all States other than the State of Jammu and Kashmir, their constitutions also have been embodied in the Constitution for the whole of India. All those other States have agreed to integrate themselves in that way and accept the Constitution provided.

Maulana Hasrat Mohani : Why this discrimination, please?

The Honourable Shri N. Gopalaswami Ayyangar : The discrimination is due to the special conditions of Kashmir. That particular State is not yet ripe for this kind of integration. It is the hope of everybody here that in due course even Jammu and Kashmir will become ripe for the same sort of integration as has taken place in the case of other States. (*Cheers*) At present it is not possible to achieve that integration. There are various reasons why this is not possible now, I shall refer again to this a little later.

In the case of the other Indian States or Unions of States there are two or three points which have got to be remembered. They have all accepted the Constitution framed for States in Part I of the new Constitution and those provisions have been adapted so as to suit conditions of Indian States and Unions of States. Secondly, the Centre, that is the Republican Federal Centre will have power to make laws applying in every such State or Union to all Union Concurrent Subjects. Thirdly, a uniformity of relationship has been established between those States and Unions and the Centre. Kashmir's conditions are, as I have said, special and require special treatment.

I do not want to take much of the time of the House, but I shall briefly indicate what the special conditions are. In the first place, there has been a war going on within the limits of Jammu and Kashmir State.

There was a cease-fire agreed to at the beginning of this year and that cease-fire is still on. But the conditions in the State are still unusual and abnormal. They have not settled down. It is therefore necessary that the administration of the State should be geared to these unusual conditions until normal life is restored as in the case of the other States.

Part of the State is still in the hands of rebels and enemies.

We are entangled with the United Nations in regard to Jammu and Kashmir and it is not possible to say now when we shall be free from this entanglement. That can take place only when the Kashmir problem is satisfactorily settled.

Again, the Government of India have committed themselves to the people of Kashmir in certain respects. They have committed themselves to the position that an opportunity would be given to the people of the State to decide for themselves whether they will remain with the Republic or wish to go out of it. We are also committed to ascertaining this will of the people by means of a plebiscite provided that peaceful and normal conditions are restored and the impartiality of the plebiscite could be guaranteed. We have also agreed that the will of the people, through the instrument of a constituent assembly, will determine the constitution of the State as well as the sphere of Union jurisdiction over the State.

At present, the legislature which was known as the Praja Sabha in the State is dead. Neither that legislature nor a constituent assembly can be convoked or can function until complete peace comes to prevail in that State. We have therefore to deal with the Government of the State which, as represented in its Council of Ministers, reflects the opinion of the largest political party in the State. Till a constituent assembly comes into being, only an interim arrangement is possible and not an arrangement which could at once be brought into line with the arrangement that exists in the case of the other States.

Now, if you remember the viewpoints that I have mentioned, it is an inevitable conclusion that, at the present moment, we could establish only an interim system. Article 306A is an attempt to establish such a system.

I shall now proceed to take the House through the provisions of this article. As honourable Members will remember, the constitution of Indian States is mainly governed by article 211A of this Constitution which applies the Constitution to Indian States, subject to the modifications contained in Part VI-A read with the Schedule. So far as that provision is concerned, I have already indicated to you that the provisions regarding the Constitution of other States could not at present be applied to Jammu and Kashmir. Therefore, clause (1) (a) of this article says that the provisions of article 211A of this Constitution shall not apply to the State of Jammu and Kashmir.

The Second portion of this article relates to the legislative authority of Parliament over the Jammu and Kashmir State. This is governed primarily by the Instrument of Accession. Broadly speaking, that legislative power is confined to the three subjects of defence, foreign affairs and communications, but as a matter of fact these broad categories include a number of items which are listed in the Instrument of Accession. I believe they number some twenty to twenty-five. Now, these items have undergone a change in description, in numbering, in arrangement, as amongst themselves, in List I and List III of the new Constitution. It is therefore necessary that the items mentioned in the Instrument of Accession should be brought into line with the changed designations of entries in Lists I and III of the new Constitution. So, clause (1) (b) of article 306A says that this listing of the items as per the terms of the new Constitution should be done by the President in consultation with the government of the State.

Clause (b) (ii) refers to possible additions to the List in the Instrument of Accession, and these additions could be made according to the provisions of this article with the concurrence of the government of the State. The idea is that even before the Constituent Assembly meets, it may be necessary in the interests of both the Centre and the State that certain items which are not included in the Instrument of Accession would be appropriately added to the List in that Instrument so that administration, legislation and

executive action might be furthered, and as this may happen before the Constituent Assembly meets, the only authority from whom we can get consent for the addition is the Government of the State. That is provided for.

Then, there is the Explanation, which defines what the Government of the State means. The Government of the State is defined both in the Constitution which is now supposed to be in force in the Jammu and Kashmir State as well as in the Proclamation which the Maharaja issued on the 5th March, 1948. The terms of the Proclamation, to the extent that they are inconsistent with the provisions of the Constitution Act of the State, will prevail over that Constitution Act, and therefore it is that in this Explanation it is the Proclamation which is referred to. Under the terms of that Proclamation the Maharaja constituted an interim popular Government, and he said: -

"I hereby ordain as follows :-

(1) My Council of Ministers shall consist of the Prime Minister and such other Ministers as may be appointed on the advice of the Prime Minister. I have by Royal Warrant appointed, Sheikh Mohd. Abdullah as the Prime Minister with effect from the 1st day of March 1948.

He proceeds -

"The Prime Minister and other Ministers would function as a Cabinet and act on the principle of joint responsibility."

Then there was no Legislature functioning, and so he instituted a kind of responsible Government with a Prime Minister and colleagues who would own collective responsibility for their acts and regard themselves as jointly responsible for all the acts of the Government. Now, that is brought out in this Explanation.

The Honourable Shri K. Santhanam : The Explanation says that the Maharaja will be recognised by the Union instead of by the President.

The Honourable Shri N. Gopalaswami Ayyangar : Perhaps we may leave it to the Third Reading. As you know the scheme of the Constitution Act is that the Rajpramukh must be recognised by the President. So, this also says that the Maharaja of Jammu and Kashmir should be a person recognised for the time being by the Union.

As regards the Council of Ministers, this Proclamation set up a system under which this Council was to be established, viz., that the Maharaja first finds the Prime minister and then on his advice appoints his colleagues, and the Explanation as now amended by me says that whatever Council of Ministers is in being at the time will, along with the

Maharaja to whom they are responsible give their concurrence or give their advice on such matters as are referred to them under this article.

Clauses (c) and (d) refer to the provisions of the Constitution other than the matters listed in Lists I and III. These various provisions have been divided into certain categories. The first according to this draft is that article 1 of the Constitution will automatically apply. As you know, it describes the territory of India, and includes amongst these territories all the States mentioned in Part III, and Jammu and Kashmir is one of the States mentioned in Part III. With regard to the other provisions in the Constitution, these will apply to the Jammu and Kashmir State with such exceptions and modifications as may be decided on when the President issues an order to that effect. That Order can be issued in regard to subjects mentioned in the Instrument of Accession only after consultation with the Government of the State. In regard to other matters, the concurrence of that Government has to be taken.

Now, it is not the case, nor is it the intention of the members of the Kashmir Government whom I took the opportunity of consulting before this draft was finalised - it is not their intention that the other provisions of the Constitution are not to apply. Their particular point of view is that these provisions should apply only in cases where they can suitably apply the only subject to such modifications or exceptions as the particular conditions of the Jammu and Kashmir State may require. I wish to say no more about that particular point at the present moment.

Then we come to clause (2). You will remember that several of these clauses provide for the concurrence of the Government of Jammu and Kashmir State. Now, these relate particularly to matters which are not mentioned in the Instrument of Accession, and it is one of our commitments to the people and Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which may be called in the State for the purpose of framing its Constitution. In other words, what we are committed to is that these additions are matters for the determination of the Constituent Assembly of the State.

Now, you will recall that in some of the clauses of this article we have provided for the concurrence of the Government of the State. The government of the State feel that in view of the commitments already entered into between the State and the Centre, they cannot be regarded as final authorities for the giving of this concurrence, though they are prepared to give it in the interim periods but if they do give this concurrence, this clause provides that that concurrence should be placed before the Constituent Assembly when it meets and the Constituent Assembly may take whatever decisions it likes on those matters.

The last clause refers to what may happen later on. We have said article 211A will not apply to the Jammu and Kashmir State. But that cannot be a permanent feature of the Constitution of the State, and hope it will not be. So the provision is made that when the Constituent Assembly of the state has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may on the recommendation of that Constituent Assembly issue an order that this article 306A shall either cease to be operative, or shall be operative only subject to such exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendation of the Constituent Assembly will be a condition precedent. That explains the whole of this article.

The effect of this article is that the Jammu and Kashmir State which is now a part of India will continue to be a part of India, will be a unit of the future Federal Republic of India and the Union Legislature will get jurisdiction to enact laws on matters specified either in the Instrument of Accession or by later addition with the concurrence of the Government of the State. And steps have to be taken for the purpose of convening a Constituent Assembly in due course which will go into the matters I have already referred to. When it has come to a decision on the different matters it will make a recommendation to the President who will either abrogate article 306A or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend. That, Sir, is briefly a description of the effect of this article, and I hope the House will carry it.

(Amendment Nos. 459, 460 and 461 were not moved)

Shri Mahavir Tyagi : (United Provinces : General) I am not in concurrence with the wording of the clauses, but I do not wish to move the amendments.

(Amendment No. 462 was not moved)

Mr. President : There is one more amendment of which notice was received this morning. That is by Shri Mahavir Tyagi to the effect 'that in amendment No.451 of List XX (Second Week), in the proviso to clause (3) of the proposed new article 306A" for the word "recommendation" the word "consultation" be substituted.

Shri Mahavir Tyagi : I am not moving that too.

Mr. President : The article is now open to discussion.

Maulana Hasrat Mohani : Sir, I want to make it clear at the very outset that I am neither opposed to all these concessions being granted to my Friend Sheikh Abdullah, not

am I opposed to the acceptance of the Maharaja as the ruler of Kashmir. And if the Maharaja of Kashmir gets further powers and concessions I will be very glad. But what I object to is this. Why do you make this discrimination about this Ruler ? My. Ayyangar has himself admitted here that the administration of Kashmir State is not on a very good basis

The Honourable Shri N. Gopalaswami Ayyangar : That is a wrong statement. I never said so.

Maulana Hasrat Mohani : That it will assume independence afterwards. But may I ask a question? when you make all these concessions for Kashmir I most strongly object to your arbitrary act of compelling the Baroda State to be merged in Bombay. The administration of Baroda state is better than the administration of many other Indian Provinces. *It is scandalous that you should compel the Maharaja of Baroda to have his raj merged in Bombay and himself pensioned off.* Some people say that he himself Voluntarily accepted this meger. I Know it is an open secret that he was brought form England and compelled against his will.....

Mr. President : Maulana, we are not concerned with the maharaja of Baroda here.

Maulana Hasrat Mohani : Well, I would not go into any detail. But I say that I object to this sort of thing. If you grant these concessions to the Maharaja of Kashmir you should also withdraw your decision about the merger of Baroda into Baroda into Bombay and allow all these concessions and many More concessions to the Baroda ruler also.

Mr. President : The question is :

"That with reference to Amendment No.379 of List XV (Second Week), after article 306, the following new article be inserted : -

'306A. (1) Not withstanding anything contained in this Constitution.

(a) the provisions of article 211A of this Constitution shall not apply in relation to the State of Jammu and Kashmir.

(b) the power of Parliament to make laws for the State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of

India are the matters with respect to which the Dominion Legislature may make laws for the State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify;

Explanation :- For the purposes of this article, the government of the State means the person for the time being recognised by the union as the maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers, for the time being in office, under the Maharaja's Proclamation, dated the fifth day of March, 1948.

(c) the provisions of article 1 of this Constitution shall apply in relation to the State;

(d) such of the other provision of this Constitution and subject to such exceptions and modifications shall apply in relation to the State as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State aforesaid shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in sub-clause (b) (ii) or in the second proviso to sub-clause (d) of clause (1) was given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the preceding clause of this article, the President may, by public notification declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State shall be necessary before the President issues such a notification."

The motion was adopted.

Article 306A was added to the Constitution.

Constitution Application Orders

The Constitution (Application to Jammu and Kashmir)
Order, 1950

ANNEXURE—P9
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C.O. 10, dated the 26th January, 1950: - In exercise of the powers conferred by clause (1) of Article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following order, namely:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1950.

(2) It shall come into force at once.

2. For the purpose of sub-clause (b) (i) of clause (1) of Article 370 of the Constitution, the matters specified in the First Schedule to this Order being matters in the Union List, are hereby declared to correspond to matters specified in the Instrument of Accession governing the accession of the State of Jammu and Kashmir to the Dominion of India as the matters with regard to which the Dominion Legislature may make laws for that State, and accordingly, the powers of Parliament to make laws for the State shall be limited to the matters specified in the said First Schedule.

3. In addition to the provisions of Articles 1 and Article 370 of the Constitution, the only other provisions of the Constitution which shall apply in relation to the State of Jammu and Kashmir shall be those specified in the Second Schedule to this order, and shall so apply subject to the exceptions and modifications specified in the said Schedule.

THE FIRST SCHEDULE

(See Paragraph 2)

[Note:— The number of each entry in the Schedule is the number of the corresponding entry in the Union List].

1. Defence of India and every part thereof including preparation for defence.

2. Naval, military and air forces work, and other armed forces of the Union.

3. Delimitation of cantonment areas, local self-Government in such areas, the Constitution and powers within such areas of Constitution and powers within such areas of cantonment authorities and the regulations of house accommodation (including the control of rents) in such areas.

4. Naval, military and air force works.

5. Arms, firearms, ammunition and explosives.

6. Atomic energy for the purpose of defence and mineral resources necessary for its production.

28. Port quarantine, including hospitals, connected there with seamen's and marine hospitals.

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29. Airways, aircraft and air navigation, provision of aerodrome regulation and organisation of air traffic and of aerodromes, provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

30. Carriage of passengers and goods by railway, sea or air.

31. Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.

41. Trade and commerce with foreign countries.

72. Elections to Parliament, and the offices of President and Vice-President, the Election Commission.

73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States, and the Speaker and Deputy Speaker of the House of the people.

74. Powers, privileges and immunities of each House of Parliament and of the members and the communities of each house, enforcement attendance of persons for giving evidence or producing documents before committee of Parliament or commissions appointed by Parliament.

75. Salaries and allowances of the Ministers for the Union, the salaries, allowances and right in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.

76. Audit of the accounts of the Union.

77. Constitution and organisation of the Supreme Court and the fees taken therein, persons entitled to practice before the Supreme Court.

80. Extension of the powers and jurisdiction members of a police force belonging to any State to railway areas outside the State.

93. Offences against laws with respect to any of the matters aforesaid.

94. Inquiries and statistics for the purpose of any of the matters aforesaid.

95. Jurisdiction and powers of all Courts, except the Supreme Court with respect to any of the matters aforesaid, but, except with the consent of the State Government not so as to confer any jurisdiction or power upon any Courts other than Courts ordinarily exercising jurisdiction or in relation to, the State, admiralty jurisdiction.

96. Fees in respect of any of the matters aforesaid but not including fees taken in any Court.

9. Preventive detention for reasons connected with defence, Foreign affairs or the security of India.

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10. Foreign Affairs, all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made there at.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

15. War and peace.

16. Foreign jurisdiction.

17. Naturalization and aliens.

18. Extradition.

19. Admission into, and emigration and expulsion from, India, passport and visas.

20. Pilgrimages to places outside India.

21. Piracies and crimes committed on the high seas or in the air offence against the law of nations committed on land or on the high seas or in the air.

22. Railways, but as respects any railway owned by the State of Jammu and Kashmir, and either operated by that State or operated on its behalf otherwise than in accordance with a contract with the State by the Government of India, limited to the regulation thereof in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of the railway administration as carriers of goods and passengers and as respects any railway which is wholly situate within the State and does not form a continuous line of communication with a railway owned by the Government of India, whether of the same gauge or not, limited to the regulation thereof in respect of safety and the responsibility of the railway administration as carriers of goods and passengers.

25. Maritime shipping and navigation, including shipping and navigation on tidal waters, provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.

26. Lighthouses, including Lightships, beacon and other provision for the safety of shipping and aircraft.

27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the Constitution and powers of port authorities therein.

Provision of the Constitution applicable	Exception	Modifications
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Part V.

Articles 72(1) (c),
72(3), 133, 134,
135, 136, 138,
145(1) (c) and
152(2)

1. Articles 80 and 81 shall apply subject to the modification that the representatives of the State in the Council of States and the House of the people respectively, shall be chosen by the President in consultation with the Government of the State.

2. Article 149 and 150 shall apply subject to the modification that the references therein to the State shall be construed as not including the State of Jammu and Kashmir.

Part XI.

Articles 247 to
252, clauses (3)
and (4) of Articles
257 and Articles
260, 262 and 263.

1. Clause (1) of Article 246 shall apply subject to the provisions of paragraph 2 of this order and clauses (2) and (3) of Article 246 shall not apply in relation to the State.

2. Clause (1) of Article 259 shall apply subject to the modification that after the words "until parliament by law otherwise provides" the words "and the concurrence of the State to such law has been obtained" shall be deemed to be inserted.

Part XI.

Articles 264, and
265, clause (2) of
Article 267, clause
(2) of Article 283,
Articles 286 to
291, 293, 295,
296 and 297.

1. Article 266 shall apply only so far as it relates to the consolidated Fund of India and the public account of India.

2. Articles 282 and 284 shall apply only in so far as they relate to the Union or the public account of India.

3. Articles 298, 299 and 300 shall apply only in so far as they relate to the Union or Government of India.

Part XV.	Articles 323 to 329	Article 324 shall apply only in so far as it relates to elections to Parliament and to the offices of the President and Vice-President.
Part XVI.	Articles 332, 333 and 337 to 342.	<p>1. Article 330 shall apply only in so far as it relates to seats reserved for Scheduled Castes.</p> <p>2. Article 334 shall apply only in so far as it relates to the House of the People.</p> <p>3. Article 335 shall apply only in so far as it relates to the Union.</p> <p>The provisions of this part shall apply only in so far as they relate to the official language of the Union and to proceedings in the Supreme Court.</p>
Part XVII.	Nil	
Part XIX.	Articles 362, 363 and 365.	<p>1. Article 361 shall apply in so far as it relates to the President.</p> <p>2. Article 364 shall apply only in so far as it relates to the laws made by Parliament.</p>
Part XX.	Nil	Article 368 shall apply subject to the additional proviso: "Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of Article 370".
Part XXI.	Articles 369, 371, and 373, clause (4) of Articles 374 and 378 and clause 2 of Article 388.	<p>1. In clause (3) of Article 379 after the words "Minister for any such State" the words "other than the State of Jammu and Kashmir" shall be deemed to be inserted.</p> <p>2. Article 389 shall apply only in so far as it relates to Bills pending in the Dominion Legislature.</p> <p>3. Article 390 shall apply only in so far as it relates to the Consolidated Fund of India.</p>

rt XXII.	Nil	Nil
st Schedule	Nil	Nil
cond Schedule	Paragraph 6	Nil
ird Schedule	Forms V, VI, VII, and VIII	Nil
urth Schedule	Nil	Nil
ht Schedule	Nil	Nil

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III, dated the 14th May, 1954.

APPENDIX I

THE CONSTITUTION (APPLICATION TO JAMMU
AND KASHMIR) ORDER, 1954

C.O. 48

ANNEXURE - P10

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In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 1954.

(2) It shall come into force on the fourteenth day of May, 1954, and shall hereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1950.

2. [The provisions of the Constitution as in force on the 20th day of June, 1964 and as amended by the Constitution (Nineteenth Amendment) Act, 1966, the Constitution (Twenty-first Amendment) Act, 1967, section 5 of the Constitution (Twenty-third Amendment) Act, 1969, the Constitution (Twenty-fourth Amendment) Act, 1971, section 2 of the Constitution (Twenty-fifth Amendment) Act, 1971, the Constitution (Twenty-sixth Amendment) Act, 1971, the Constitution (Thirtieth Amendment) Act, 1972, section 2 of the Constitution (Thirty-first Amendment) Act, 1973, section 2 of the Constitution (Thirty-third Amendment) Act, 1974, sections 2, 5, 6 and 7 of the Constitution (Thirty-eighth Amendment) Act, 1975, the Constitution (Thirty-ninth Amendment) Act, 1975, the Constitution (Fortieth Amendment) Act, 1976, sections 2, 3 and 5 of the Constitution (Fifty-second Amendment) Act, 1985 and the Constitution (Sixty-first Amendment) Act, 1988 which, in addition to article 1 and article 370, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—]

(1) THE PREAMBLE.

(2) PART I.

To article 3, there shall be added the following further proviso, namely:—

“Provided further that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or

¹Published with the Ministry of Law Notification No. S.R.O. 1610, dated the 14th May, 1954, Gazette of India, Extraordinary, Part II, section 3, page 821.

²The opening words have been successively amended by C.O. 56, C.O. 74, C.O. 76, C.O. 79, C.O. 89, C.O. 91, C.O. 94, C.O. 98, C.O. 103, C.O. 104, C.O. 105, C.O. 108, C.O. 136 and C.O. 141 to read as above.

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boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State."

(3) PART II.

(a) This Part shall be deemed to have been applicable in relation to the State of Jammu and Kashmir as from the 26th day of January, 1950.

(b) To article 7, there shall be added the following further proviso, namely:—

"Provided further that nothing in this article shall apply to a permanent resident of the State of Jammu and Kashmir, who, after having so migrated to the territory now included in Pakistan, returns to the territory of that State under a permit for resettlement in that State or permanent return issued by or under the authority of any law made by the Legislature of that State, and every such person shall be deemed to be a citizen of India."

(4) PART III.

(a) In article 13, references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

* * * * *

(c) In clause (3) of article 16, the reference to the State shall be construed as not including a reference to the State of Jammu and Kashmir.

(d) In article 19, for a period of ²³[twenty-five] years] from the commencement of this Order:—

(i) in clauses (3) and (4), after the words "in the interests of", the words "the security of the State or" shall be inserted;

(ii) in clause (5), for the words "or for the protection of the interests of any Scheduled Tribes", the words "or in the interests of the security of the State" shall be substituted; and

(iii) the following new clause shall be added, namely:—

'(7) The words "reasonable restrictions" occurring in clauses (2), (3), (4) and (5) shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable.'

¹Cl. (b) omitted by C.O. 124.

²Subs. by C.O. 69, for "ten years".

³Subs. by C.O. 97, for "twenty".

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(e) In clauses (4) and (7) of article 22, for the word "Parliament", the words "the Legislature of the State" shall be substituted.

(f) In article 31, clauses (3), (4) and (6) shall be omitted; and for clause 5), there shall be substituted the following clause, namely:—

"(5) Nothing in clause (2) shall affect—

(a) the provisions of any existing law; or

(b) the provisions of any law which the State may hereafter make—

(i) for the purpose of imposing or levying any tax or penalty;
or

(ii) for the promotion of public health or the prevention of danger to life or property; or

(iii) with respect to property declared by law to be evacuee property."

(g) In article 31A, the proviso to clause (1) shall be omitted; and for sub-clause (a) of clause (2), the following sub-clause shall be substituted, namely:—

"(a) "estate" shall mean land which is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes—

(i) sites of buildings and other structures on such land;

(ii) trees standing on such land;

(iii) forest land and wooded waste;

(iv) area covered by or fields floating over water;

(v) sites of *jandars* and *gharats*;

(vi) any *jagir*, *inam*, *muafi* or *mukarrari* or other similar grant, but does not include—

(i) the site of any building in any town, or town area or village *abadi* or any land appurtenant to any such building or site;

(ii) any land which is occupied as the site of a town or village;
or

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(iii) any land reserved for building purposes in a municipality or notified area or cantonment or town area or any area for which a town planning scheme is sanctioned.¹

¹[(h) In article 32, clause (3) shall be omitted.]

(i) In article 35—

(i) references to the commencement of the Constitution shall be construed as references to the commencement of this Order;

(ii) in clause (a) (i), the words, brackets and figures "clause (3) of article 16, clause (3) of article 32" shall be omitted; and

(iii) after clause (b), the following clause shall be added, namely:—

"(c) no law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of ²[³twenty-five] years] from the commencement of the said Order, except as respects things done or omitted to be done before the expiration thereof."

(j) After article 35, the following new article shall be added, namely:—

"35A. *Saving of laws with respect to permanent residents and their rights.*— Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State,—

(a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—

(i) employment under the State Government;

¹Subs. by C.O. 89, for cl. (h).

²Subs. by C.O. 69, for "ten years".

³Subs. by C.O. 97, for "twenty".

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- (ii) acquisition of immovable property in the State;
- (iii) settlement in the State; or
- (iv) right to scholarships and such other forms of aid as the State Government may provide,

shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part."

5) PART V.

¹[(a) For the purposes of article 55, the population of the State of Jammu and Kashmir shall be deemed to be sixty-three lakhs.

(b) In article 81, for clauses (2) and (3), the following clauses shall be substituted, namely:—

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

(a) there shall be allotted to the State six seats in the House of the People;

(b) the State shall be divided into single member territorial constituencies by the Delimitation Commission constituted under the Delimitation Act, 1972, in accordance with such procedure as the Commission may deem fit;

(c) the constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(d) the constituencies into which the State is divided shall not comprise the area under the occupation of Pakistan.

(3) Nothing in clause (2) shall affect the representation of the State in the House of the People until the dissolution of the House existing on the date of publication in the Gazette of India of the final order or orders of the Delimitation Commission relating to the delimitation of parliamentary constituencies under the Delimitation Act, 1972.

¹Subs. by C.O. 98, for cls. (a) and (b).

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(4) (a) The Delimitation Commission shall associate with itself for the purpose of assisting it in its duties in respect of the State, five persons who shall be members of the House of the People representing the State.

(b) The persons to be so associated from the State shall be nominated by the Speaker of the House of the People having due regard to the composition of the House.

(c) The first nominations to be made under sub-clause (b) shall be made by the Speaker of the House of the People within two months from the commencement of the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974.

(d) None of the associate members shall have a right to vote or to sign any decision of the Delimitation Commission.

(e) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Speaker of the House of the People and in accordance with the provisions of sub-clauses (a) and (b)."]

¹[(c) In article 133, after clause (1), the following clause shall be inserted, namely:—

'(1A) The provisions of section 3 of the Constitution (Thirtieth Amendment) Act, 1972, shall apply in relation to the State of Jammu and Kashmir subject to the modification that references therein to "this Act", "the commencement of this Act", "this Act had not been passed" and "as amended by this Act" shall be construed respectively as references to "the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1974", "the commencement of the said Order", "the said Order had not been made" and "as it stands after the commencement of the said Order".']

²[(d)] In article 134, clause (2), after the words "Parliament may", the words "on the request of the Legislature of the State" shall be inserted.

³[(e)] Articles 135, ^{3***} and 139 shall be omitted.

* * * * *

¹Ins. by C.O. 98.

²Cls. (c) and (d) relettered as cls. (d) and (e), *ibid.*

³The figures "136" omitted by C.O. 60.

⁴Cls. (f) and (g) omitted by C.O. 56.

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¹[(5A) PART VI.

²[(a) Articles 153 to 217, article 219, article 221, articles 223, 224, 224A and 225 and articles 227 to 237 shall be omitted.]

(b) In article 220, references to the commencement of the Constitution shall be construed as references to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1960.

³[(c) In article 222, after clause (1), the following new clause shall be inserted, namely:—

“(1A) Every such transfer from the High Court of Jammu and Kashmir or to that High Court shall be made after consultation with the Governor.”.]

(6) PART XI.

⁴[(a) In article 246, for the words, brackets and figures “clauses (2) and (3)” occurring in clause (1), the word, brackets and figure “clause (2)” shall be substituted, and the words, brackets and figure “Notwithstanding anything in clause (3),” occurring in clause (2) and the whole of clauses (3) and (4) shall be omitted.]

⁵[(b) For article 248, the following article shall be substituted, namely:—

“248. *Residuary powers of legislation.*—Parliament has exclusive power to make any law with respect to—

⁷[(a) prevention of activities involving terrorist acts directed towards overthrowing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;]

⁸[(aa)]⁹[prevention of other activities] directed towards disclaiming, questioning or disrupting the sovereignty and territorial

¹Ins. by C.O. 60 (w.e.f. 26-1-1960).

²Subs. by C.O. 89, for cl. (a).

³Subs. by C.O. 74, for cl. (c) (w.e.f. 24-11-1965).

⁴Subs. by C.O. 66, for cl. (a).

⁵Cls. (b) and (bb) subs. by C.O. 85, for original cl. (b).

⁶Subs. by C.O. 93, for cl. (b).

⁷Ins. by C.O. 122.

⁸Cl. (a) relettered as cl. (aa), *ibid.*

⁹Subs., *ibid.*, for “prevention of activities”.

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integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and

(b) taxes on—

(i) foreign travel by sea or air;

(ii) inland air travel;

(iii) postal articles, including money orders, phonograms and telegrams.”.

¹[Explanation.—In this article, “terrorist act” means any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature.]

²[(bb) In article 249, in clause (1), for the words “any matter enumerated in the State List specified in the resolution”, the words “any matter specified in the resolution, being a matter which is not enumerated in the Union List or in the Concurrent List” shall be substituted.]]

(c) In article 250, for the words “to any of the matters enumerated in the State List”, the words “also to matters not enumerated in the Union List” shall be substituted.

3* * *

(e) To article 253, the following proviso shall be added, namely:—

“Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of India without the consent of the Government of that State.”.

4* * *

⁵[(f)] Article 255 shall be omitted.

⁵[(g)] Article 256 shall be re-numbered as clause (1) of that article, and the following new clause shall be added thereto, namely:—

¹Ins. by C.O. 122.

²Subs. by C.O. 129, for cl. (bb).

³Cl. (d) omitted, *ibid.*

⁴Cl. (f) omitted by C.O. 66.

⁵Cls. (g) and (h) relettered as cls. (f) and (g), *ibid.*

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"(2) The State of Jammu and Kashmir shall so exercise its executive power as to facilitate the discharge by the Union of its duties and responsibilities under the Constitution in relation to that State; and in particular, the said State shall, if so required by the Union, acquire or requisition property on behalf and at the expense of the Union, or if the property belongs to the State, transfer it to the Union on such terms as may be agreed, or in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India."

1* * *

²[(h)] In clause (2) of article 261, the words "made by Parliament" shall be omitted.

7) PART XII.

3* * *

⁴[(a)] Clause (2) of article 267, article 273, clause (2) of article 283 ⁵[and article 290] shall be omitted.

⁶[(b)] In articles 266, 282, 284, 298, 299 and 300, references to the State or States shall be construed as not including references to the State of Jammu and Kashmir.

⁷[(c)] In articles 277 and 295, references to the commencement of the Constitution shall be construed as references to the commencement of this order.

8) PART XIII.

⁸*** In clause (1) of article 303, the words "by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule" shall be omitted.

6* * *

9) PART XIV.

⁹[In article 312, after the words "the States", the brackets and words "(including the State of Jammu and Kashmir)" shall be inserted.]

¹Cl. (i) omitted by C.O. 56.

²Cl. (j) relettered as cl. (i) by C.O. 56 and again relettered as cl. (h) by C.O. 66.

³Cls. (a) and (b) inserted by C.O. 55 have been omitted by C.O. 56.

⁴Cls. (a), (b) and (c) [relettered as cls. (c), (d) and (e) respectively by C.O. 55] have again been relettered as cls. (a), (b) and (c) respectively by C.O. 56.

⁵Subs. by C.O. 94, for "articles 290 and 291".

⁶Brackets and letter '(a)' and cl. (b) omitted by C.O. 56.

⁷Subs., *ibid.*, for the previous modification.

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[(10) PART XV.]

(a) In clause (1) of article 324, the reference to the Constitution shall, in relation to elections to either House of the Legislature of Jammu and Kashmir, be construed as a reference to the Constitution of Jammu and Kashmir.

²[(b) In articles 325, 326, 327 and 329, the reference to a State shall be construed as not including a reference to the State of Jammu and Kashmir.

(c) Article 328 shall be omitted.

(d) In article 329, the words and figures "or article 328" shall be omitted.]]

³[(e) In article 329A, clauses (4) and (5) shall be omitted.

11) PART XVI.

* * * *

⁴[(a)] Articles 331, 332, 333, ⁵[336 and 337] shall be omitted.

⁶[(b)] In articles 334 and 335, references to the State or the States shall be construed as not including references to the State of Jammu and Kashmir.

⁷[(c) In clause (1) of article 339, the words "the administration of the scheduled Areas and" shall be omitted.]

12) PART XVII.

The provisions of the Part shall apply only in so far as they relate to—

- (i) the official language of the Union;
- (ii) the official language for communication between one State and another, or between a State and the Union; and
- (iii) the language of the proceedings in the Supreme Court.

¹Subs. by C.O. 60, for sub-paragraph (10) (w.e.f. 26-1-1960).

²Subs. by C.O. 75 for cls. (b) and (c).

³Ins. by C.O. 105.

⁴Cl. (a) omitted by C.O. 124.

⁵Cls. (b) and (c) relettered as cls. (a) and (b), *ibid.*

⁶Subs., *ibid.*, for "336, 337, 339 and 342".

⁷Ins., *ibid.*

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(13) PART XVIII.

(a) To article 352, the following new clause shall be added, namely:—

¹"[(6)] No Proclamation of Emergency made on grounds only of internal disturbance or imminent danger thereof shall have effect in relation to the State of Jammu and Kashmir (except as respects article 354) ²[unless—

(a) it is made at the request or with the concurrence of the Government of that State, or

(b) where it has not been so made, it is applied subsequently by the President to that State at the request or with the concurrence of the Government of that State.]".

³[(b) In clause (1) of article 356, references to provisions or provision of this Constitution shall, in relation to the State of Jammu and Kashmir, be construed as including references to provisions or provision of the Constitution of Jammu and Kashmir.

⁴[(bb) In clause (4) of the article 356, after the second proviso, the following proviso shall be inserted, namely:—

'Provided also that in the case of the Proclamation issued under clause (1) on the 18th day of July, 1990 with respect to the State of Jammu and Kashmir, the reference in the first proviso to this clause to "three years" shall be construed as a reference to ⁵["seven years"]'.

(c) Article 360 shall be omitted.]

(14) PART XIX.

* * * *

⁷[(a)] ⁸[Article 365] shall be omitted.

* * * *

¹Subs. by C.O. 104, for "(4)".

²Subs. by C.O. 100, for certain words.

³Subs. by C.O. 71, for cl. (b).

⁴Added by C.O. 151.

⁵Subs. by C.O. 162 for "six years".

⁶Cl. (a) omitted by C.O. 74.

⁷Cls. (b) and (c) relettered as cls. (a) and (b), *ibid.*

⁸Subs. by C.O. 94, for "Articles 362 and 365".

⁹Original cl. (c) omitted by C.O. 56.

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¹[(b)] To article 367, there shall be added the following clause, namely:—

"(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

²[(aa) references to the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(b) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers;

Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as including references to the Sadar-i-Riyasat acting on the advice of his Council of Ministers;]

(c) references to a High Court shall include references to the High Court of Jammu and Kashmir;

* * * * *

⁴[(d)] references to the permanent residents of the said State shall be construed as meaning persons who, before the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954 were recognised as State subjects under the laws in force in the State or who are recognised by any law made by the Legislature of the State as permanent residents of the State; and

⁵[(e) references to a Governor shall include references to the Governor of Jammu and Kashmir.

¹Cls. (b) and (c) relettered as cls. (a) and (b) by C.O. 74.

²Subs. *ibid.*, for cl. (b).

³Cl. (d) omitted by C.O. 56.

⁴Cl. (e) relettered as cl. (d), *ibid.*

⁵Subs. by C.O. 74, for cl. (e).

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Provided that in respect of any period prior to the 10th day of April, 1965, such references shall be construed as references to the person recognised by the President as the Sadar-i-Riyasat of Jammu and Kashmir and as including references to any person recognised by the President as being competent to exercise the powers of the Sadar-i-Riyasat.]”.

15) PART XX.

¹[(a)] ²[To clause (2) of article 368], the following proviso shall be added, namely:—

“Provided further that no such amendment shall have effect in relation to the State of Jammu and Kashmir unless applied by order of the President under clause (1) of article 370.”.

³[(b) After clause (3) of article 368, the following clause shall be added, namely:—

“(4) No law made by the Legislature of the State of Jammu and Kashmir seeking to make any change in or in the effect of any provision of the Constitution of Jammu and Kashmir relating to—

(a) appointment, powers, functions, duties, emoluments, allowances, privileges or immunities of the Governor; or

(b) superintendence, direction and control of elections by the Election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the Legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Constitution of Jammu and Kashmir,

shall have any effect unless such law has, after having been reserved for the consideration of the President, received his assent.”.]

16) PART XXI.

(a) Articles 369, 371, ⁴[371A], ⁵[372A], 373, clauses (1), (2), (3) and (5) of article 374 and ⁶[articles 376 to 378A and 392] shall be omitted.

¹Numbered as cl. (a) by C.O. 101.

²Subs. by C.O. 91, for “To article 368”.

³Ins. by C.O. 101.

⁴Ins. by C.O. 74.

⁵Ins. by C.O. 56.

⁶Subs. *ibid.*, for “articles 376 to 392”.

(b) In article 372—

(i) clauses (2) and (3) shall be omitted;

(ii) references to the laws in force in the territory of India shall include references to *hidayats, ailians, ishtihars, circulars, robkars, irshads, yadashts*, State Council Resolutions, Resolutions of the Constituent Assembly, and other instruments having the force of law in the territory of the State of Jammu and Kashmir; and

(iii) references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(c) In clause (4) of article 374, the reference to the authority functioning as the Privy Council of a State shall be construed as a reference to the Advisory Board constituted under the Jammu and Kashmir Constitution Act, 1996 and references to the commencement of the Constitution shall be construed as references to the commencement of this Order.

(17) PART XXII.

Articles 394 and 395 shall be omitted.

(18) FIRST SCHEDULE.

(19) SECOND SCHEDULE.

* * * * *

(20) THIRD SCHEDULE.

Forms V, VI, VII and VIII shall be omitted.

(21) FOURTH SCHEDULE.

²[(22) SEVENTH SCHEDULE.

(a) In the Union List—

(i) for entry 3, the entry "3. Administration of cantonments." shall be substituted;

³[(ii) entries 8, 9 ⁴[and 34], ⁵*** entry 79, and the words "Inter-State migration" in entry 81 shall be omitted;]

¹Modification relating to paragraph 6 omitted by C.O. 56.

²Subs. by C.O. 66, for sub-paragraph (22).

³Subs. by C.O. 85, for item (ii).

⁴Subs. by C.O. 92, for "34 and 60".

⁵The words and figures 'the words "and records" in the entry 67' omitted by C.O. 95.

(Appendix I)

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* * * * *

²[(iii) in entry 72, the reference to the States shall be construed,—

(a) in relation to appeals to the Supreme Court from any decision or order of the High Court of the State of Jammu and Kashmir made in an election petition whereby an election to either House of the Legislature of that State has been called in question, as including a reference to the State of Jammu and Kashmir;

(b) in relation to other matters, as not including a reference to that State];³[and]

⁴[(iv) for entry 97, the following entry shall be substituted, namely:—

⁵[97. Prevention of activities—

(a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;

(b) directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution,

taxes on foreign travel by sea or air, on inland air travel and on postal articles, including money orders, phonograms and telegrams.

Explanation.—In this entry, "terrorist act" has the same meaning as in the *Explanation* to article 248.]⁶]

(b) The State List shall be omitted.

¹Original item (iii) omitted by C.O. 74.

²Subs. by C.O. 83, for item (iii).

³Ins. by C.O. 85.

⁴Subs. by C.O. 93, for item (iv).

⁵Subs. by C.O. 122, for entry 97.

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¹[(c) In the Concurrent List—²[(i) for entry 1, the following entry shall be substituted, namely:—

"1. Criminal law (excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power) in so far as such criminal law relates to offences against laws with respect to any of the matters specified in this List.";

³[(ia) for entry 2, the following entry shall be substituted, namely:—

"2. Criminal procedure (including prevention of offences and constitution and organisation of criminal courts, except the Supreme Court and the High Court) in so far as it relates to,—

(i) offences against laws with respect to any matters being matters with respect to which Parliament has power to make laws; and

(ii) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country.";

⁴(ib) for entry 12, the following entry shall be substituted, namely:—

"12. Evidence and oaths in so far as they relate to,—

(i) administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country; and

(ii) any other matters being matters with respect to which Parliament has power to make laws.";

(ic) for entry 13, the entry "13. Civil procedure in so far as it relates to administration of oaths and taking of affidavits by diplomatic and consular officers in any foreign country." shall be substituted;

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¹Subs. by C.O. 69, for cl. (c).²Subs. by C.O. 70, for item (i).³Ins. by C.O. 94.⁴Subs. by C.O. 122, for sub-clauses (ia) and (ib).⁵Items (ii) and (iii) omitted by C.O. 74.

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¹[(ii)] for entry 30, the entry "30. Vital statistics in so far as they relate to births and deaths including registration of births and deaths." shall be substituted;

3* * *

⁴[(iii) entry 3, entries 5 to 10 (both inclusive), entries 14, 15, 17, 20, 21, 27, 28, 29, 31, 32, 37, 38, 41 and 44 shall be omitted;

(iia) for entry 42, the entry "42. Acquisition and requisitioning of property, so far as regards acquisition of any property covered by entry 67 of List I or entry 40 of List III or of any human work of art which has artistic or aesthetic value." shall be substituted; and

⁵[(iv) in entry 45, for the words and figures "List II or List III", the words "this List" shall be substituted.

(23) EIGHTH SCHEDULE.

⁶[(24) NINTH SCHEDULE.

⁷[(a)] After entry 64, the following entries shall be added, namely:—

⁸64A. The Jammu and Kashmir State Kuth Act (No. I of Svt. 1978).

⁹[64B.] The Jammu and Kashmir Tenancy Act (No. II of Svt. 1980).

⁹[64C.] The Jammu and Kashmir Alienation of Land Act (No. V of Svt. 1995).

9* * *

¹⁰[64D]. The Jammu and Kashmir Big Landed Estates Abolition Act (No. XVII of Svt. 2007).

¹⁰[64E]. Order No. 6-H of 1951, dated the 10th March, 1951, regarding Resumption of Jagirs and other assignments of land revenue, etc.

¹Ins. by C.O. 70.

²Item (iv) renumbered as item (ii) by C.O. 74.

³Items (v) and (vi) omitted by C.O. 72.

⁴Subs. by C.O. 95, for item (iii).

⁵Item (vi) renumbered as item (iv) by C.O. 74.

⁶Subs., *ibid.*, for sub-paragraph (24).

⁷Numbered by C.O. 105.

⁸Renumbered by C.O. 98.

⁹Omitted by C.O. 106.

¹⁰Renumbered, *ibid.*

(Appendix I)

¹[64F. The Jammu and Kashmir Restitution of Mortgaged Properties Act, 1976 (Act XIV of 1976).

64G. The Jammu and Kashmir Debtors' Relief Act, 1976 (Act XV of 1976).

²[(b) Entries 87 to 124, inserted by the Constitution (Thirty-ninth Amendment) Act, 1975, shall be renumbered as entries 65 to 102 respectively.]

³[(c) Entries 125 to 188 shall be renumbered as entries 103 to 166 respectively.]

⁴[(25) TENTH SCHEDULE.

(a) for the brackets, words and figures "Articles 102(2) and 191(2)", the brackets, word and figures "[Article 102(2)]" shall be substituted;

(b) in clause (a) of paragraph 1, the words "or the Legislative Assembly or, as the case may be, either House of the Legislature of a State" shall be omitted;

(c) in paragraph 2,—

(i) in sub-paragraph (1), in sub-clause (ii) of clause (b) of the *Explanation*, the words and figures "or, as the case may be, article 188" shall be omitted;

(ii) in sub-paragraph (3), the words and figures "or, as the case may be, article 188" shall be omitted;

(iii) in sub-paragraph (4), the reference to the commencement of the Constitution (Fifty-second Amendment) Act, 1985 shall be construed as a reference to the commencement of the Constitution (Application to Jammu and Kashmir) Amendment Order, 1989;

(d) in paragraph 5, the words "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 be omitted;

(e) in sub-paragraph (2) of paragraph 6, the words and figures "or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212" shall be omitted;

(f) in sub-paragraph (3) of paragraph 8, the words and figures "or, as the case may be, article 194," shall be omitted.]

¹Ins. by C.O. 106.

²Ins. by C.O. 105.

³Ins. by C.O. 108 (w.e.f. 31-12-1977).

⁴Ins. by C.O. 136.

MINISTRY OF HOME AFFAIRS
(Department of Jammu and Kashmir Affairs)

ANNEXURE-P11

NOTIFICATION

101

New Delhi, the 19th December, 2018

G.S.R. 1223(E).—The following Proclamation by the President is published for general information:—

Whereas, I, Ram Nath Kovind, President of India, have received a report from the Governor of the State of Jammu and Kashmir and after considering the report and other information received by me, I am satisfied that a situation has arisen in which the Government of that State cannot be carried on in accordance with the provisions of the Constitution of India, as applicable to that State (hereinafter referred to as "the Constitution") and of the Constitution of Jammu and Kashmir (hereinafter referred to as "the State Constitution") ;

Now, therefore, in exercise of the powers conferred by article 356 of the Constitution, and of all other powers enabling me in that behalf, I hereby proclaim that I:—

- (a) assume to myself as President of India all the functions of the Government of the said State and all powers vested in or exercisable by the Governor of that State under the Constitution and the State Constitution;
- (b) declare that the powers of the Legislature of the said State shall be exercisable by or under the authority of Parliament; and
- (c) make the following incidental and consequential provisions which appear to me to be necessary or desirable for giving effect to the objects of this Proclamation, namely:—
 - (i) in the exercise of the functions and powers assumed to myself by virtue of clause (a) of this Proclamation as aforesaid, it shall be lawful for me as President of India to act to such extent as I think fit through the Governor of the said State;
 - (ii) the operation of the following provisions of the Constitution and of the State Constitution is hereby suspended, namely:—

"So much of the first proviso to article 3 of the Constitution as relates to the reference by the President to the Legislature of the State and the second proviso to that article; so much of clause (2) of article 151 of the Constitution as relates to the laying before the Legislature of the State of the report submitted to the Governor by the Comptroller and Auditor-General of India;

sections 35 to 41 (both inclusive), so much of section 43 as relates to the allocation among the Ministers of the business of the Government of the State, section 44, sub-section (1) and clause (a) of sub-section (2) of section 53, sections 54, 55, 56 and 57, clauses (b) and (c) of section 58 and the first proviso thereto, section 59, section 60, sub-section (2) of section 61 so far as it relates to clause (c) of, and the first proviso to section 58 and to section 60, sections 65, 66, 67, 71 and 72; sections 74, 75 and 76, sub-sections (3) and (4) of section 77, sections 85 to 88 (both inclusive) and so much of section 137 as relates to the laying of the report with a memorandum before the Legislature of the State, of the State Constitution";

- (iii) any reference in the Constitution and the State Constitution to the Governor shall, in relation to the said State, be construed as a reference to the President, and any reference in the Constitution and the State Constitution to the Legislature of the State or the Houses thereof shall, in so far as it relates to the functions and powers thereof, be construed, unless the context otherwise requires, as a reference to Parliament, and, in particular, the reference in section 91 of the State Constitution to the Governor and

to the Legislature of the State or the Houses thereof, shall be construed as references to the President and to Parliament or to the Houses thereof respectively:

Provided that nothing herein shall affect the provisions of sub-section (1) of section 26, sections 27 to 31 (both inclusive), section 122, section 143 and paragraph 1 to 8 (both inclusive) of the Second Schedule to the State Constitution or prevent the President from acting under sub-clause (1) of this clause to such extent as he thinks fit through the Governor of the said State;

- (iv) any reference in the Constitution or in the State Constitution to Acts or laws of, or made by, the Legislature of the State shall be construed as including a reference to Acts or laws made, in exercise of the powers of the Legislature of the State, by Parliament, by virtue of this Proclamation, or by the President or other authority referred to in sub-clause (a) of clause (1) of article 357 of the Constitution and the Jammu and Kashmir General Clauses Act, 1977 (Act no. XX of 1977) and so much of the General Clauses Act, 1897 (10 of 1897) as applies to State laws, shall have effect in relation to any such Act or law as if it were an Act of the Legislature of the State.

NEW DELHI;

The 19th December, 2018.

RAM NATH KOVIND

PRESIDENT

[F. No. 11012/03/2018-K-I]

RAJIV GAUBA, Home Secy.

आदेश

नई दिल्ली, 19 दिसम्बर, 2018

सा.का.नि. 1224(अ).—राष्ट्रपति का निम्नलिखित आदेश आम सूचना के लिए प्रकाशित किया जाता है:—

भारत के संविधान के अनुच्छेद 356 के अधीन मेरे द्वारा आज दिसम्बर, 2018 के उन्नीसवें दिन जारी की गई उद्घोषणा के खंड (ग) के उप-खंड (i) के अनुसरण में, मैं एतद्वारा निदेश देता हूँ कि जम्मू व कश्मीर राज्य सरकार के सभी कार्य तथा संविधान और जम्मू एवं कश्मीर के संविधान के अधीन या उस राज्य में प्रवृत्त किसी विधि के अधीन उस राज्य के राज्यपाल में निहित या उसके द्वारा प्रयोक्तव्य सभी शक्तियाँ, जिनको राष्ट्रपति ने उक्त उद्घोषणा के खंड (क) के आधार पर स्वयं संभाल लिया है, राष्ट्रपति के अधीक्षण, निदेशन तथा नियंत्रण के अधीन रहते हुए, उक्त राज्य के राज्यपाल द्वारा भी प्रयोक्तव्य होंगी।

नई दिल्ली,

दिनांक : 19 दिसम्बर, 2018

राम नाथ कोविन्द

राष्ट्रपति

[फा. सं. 11012/03/2018-के.-I]

राजीव गाबा, गृह सचिव

ORDER

183

New Delhi, the 19th December, 2018

G.S.R. 1224(E).—The following Order made by the President is published for general information:—

In pursuance of sub-clause (i) of clause (c) of the Proclamation issued on this the 19th day of December, 2018, by me under article 356 of the Constitution of India, I hereby direct that all the functions of the Government of the State of Jammu and Kashmir and all the powers vested in or exercisable by the Governor of that State under the Constitution and the Constitution of Jammu and Kashmir or under any law in force in that State, which have been assumed by the President by virtue of clause (a) of the said Proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State.

NEW DELHI;

The 19th December, 2018.

RAM NATH KOVIND
PRESIDENT

[F. No. 11012/03/2018-K-I]
RAJIV GAUBA, Home Secy.

M. (Gandhi) 06-12-2019

1

IN THE SUPREME COURT OF INDIA

WRIT JURISDICTION

WRIT PETITION (C) NO.1268 OF 2019

IN THE MATTER OF :

J & K HIGH COURT BAR ASSOCIATION,
SRINAGAR

VS.

UNION OF INDIA & ORS.

... RESPONDENTS

SHORT AFFIDAVIT ON BEHALF OF THE UNION OF
INDIA

I, T. Sreekanth S/o Shri T. C. Reddeppa, aged 45 years, presently working as Director in the Ministry of Home Affairs, Government of India, do hereby solemnly affirm and state as follows:

1. That in my official capacity I am acquainted with the facts of these cases, and am competent and authorized to swear this affidavit on behalf of the Union of India.

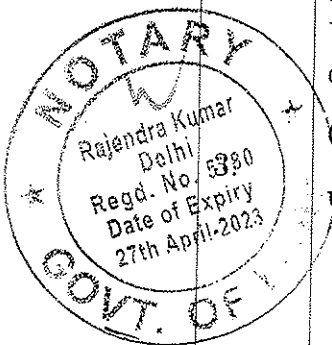
2. It is submitted that the present writ petitions have been filed on behalf of the Petitioners, seeking following reliefs :

S.N.	PRAYER	PETITION
	Relief(s) regarding Presidential orders issued under Article 370 since 1957 till date	
1.	Declaring all the Presidential orders issued under article 370 from 1957 till date, void since they could not have been ratified after the dissolution (in	WP(C) 1368/2019 People's Union for



(T. Sreekanth)
T. SREEKANTH
Director
Ministry of Home Affairs
Govt. of India

	1957) of the Constituent Assembly of Jammu and Kashmir as mandated under Article 370(2); and	Civil Liberties Vs. UOI
Relief(s) regarding C.O. No. 272 dated 05.08.2019		
2.	Issue appropriate writ, direction or order and declare the Presidential Order GSR 551(E) C.O. 272 unconstitutional, inoperative and void.	WP(C) 1368/2019 People's Union for Civil Liberties vs. UOI WP(C) 1268/2019 J&K High Court Bar Association Srinagar vs. UOI
Relief(s) regarding C.O. No. 273 dated 06.08.2019		
	Issue appropriate writ, direction or order declaring the Presidential Order GSR 562(E) C.O. 273as unconstitutional, inoperative and void.	WP(C) 1368/2019 People's Union for Civil Liberties vs. UOI WP(C) 1268/2019 J&K High

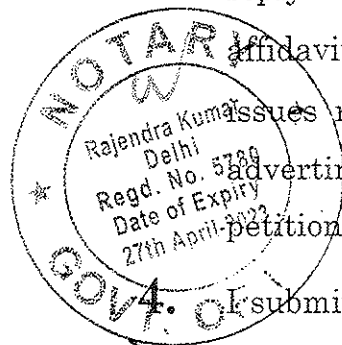


(a. 2019)
S. SREENIVAS
Secretary
Ministry of Home Affairs
New Delhi

		Court Bar Association Srinagar vs. UOI
Relief(s) regarding Jammu and Kashmir Reorganisation Act, 2019		
4.	Issue appropriate writ, direction or order declaring the Jammu and Kashmir (Re-organisation) Act, 2019 as unconstitutional, inoperative and void.	WP(C) 1368/2019 People's Union for Civil Liberties vs. UOI
	Declaring the Jammu and Kashmir (Re-organisation) Act, 2019 as unconstitutional, inoperative and void.	WP(C) 1268/2019 J&K High Court Bar Association Srinagar vs. UOI

3. I submit that a number of other writ petitions are currently pending before this Hon'ble Court impugning the very orders/actions which have been impugned in the petitions under reply. The Union of India has filed a comprehensive counter affidavit on 9th November, 2019, dealing with the entirety of the issues raised in those writ petitions, without, for the present, advertng to the individual grounds raised in each separate petition.

4. I submit that this Hon'ble Court vide order dated 14.11.2019 has taken on board the petitions under reply [i.e. WP(C) No. 1268/2019 filed by 'J&K High Court Bar Association' and WP(C)



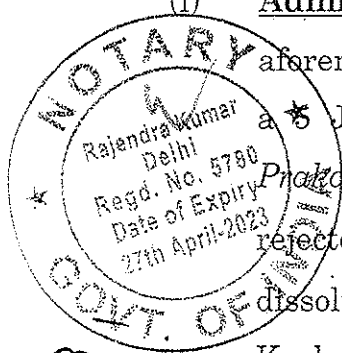
Dr. Anand
BRIEFING
2020/11/14
17/11/2019
17/11/2019

No. 1368/2019 filed by 'People's Union for Civil Liberties'] and directed that counter affidavits be filed in regard to these petitions as well.

5. I submit that the grounds raised and the reliefs sought in these 2 petitions are similar to the grounds raised and the reliefs sought in the other pending writ petitions. Accordingly, the submissions and averments made in the aforementioned comprehensive affidavit dated 09.11.2019 are respectfully reiterated and may be read as part and parcel of this affidavit as well.

6. In addition, I am advised to submit that the challenge by the petitioners in W.P. (C) No. 1368/2019 (PUCL & Ors) to all the Presidential Orders issued under Article 370 of the Constitution of India (as it then stood) from 1957 onwards is wholly baseless and utterly misconceived. This challenge is based on the entirely untenable contention that once the Constituent Assembly of the then State of Jammu and Kashmir was dissolved, the powers under article 370 of the Constitution of India could no longer be exercised by the President. The unsoundness and unsustainability of this challenge would be evident from the following submissions:

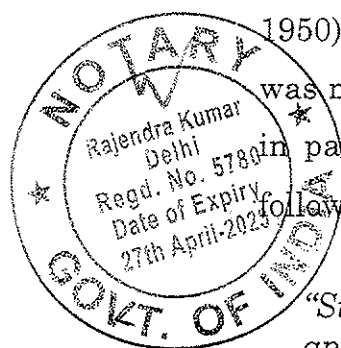
- (i) Admittedly, as has already been explained in the aforementioned comprehensive affidavit dated 09.11.2019, a 5 Judge Bench of this Hon'ble Court has, in *Sampat Prakash v state of J&K*, AIR 1970 SC 1118, categorically rejected the very same contention, and held that the dissolution of the Constituent Assembly of Jammu and Kashmir would not render Article 370 of the Constitution of India inoperative or ineffective. In other words, it was held that the power under Article 370(1)(d) of the Constitution could validly be exercised by the President of India even after the dissolution of the Constituent Assembly of Jammu



(स. श्रीराम)
S. SUREKANTH
P.O. Secy./Director
Ministry of Home Affairs
Govt. of India

and Kashmir. On this basis, the challenge to two orders issued by the President of India under Article 370(1)(d), in the years 1959 and 1964 respectively, was emphatically rejected. This judgment squarely covers and concludes this issue against the petitioners.

- (ii) The petitioners appear to contend that the judgment in *Sampat Prakashis per incuriam*, on the basis that it does not take note of an earlier judgment by a bench of coordinate strength in *Prem Nath Kaul v State of J&K* – AIR 1959 SC 749. However, this issue, regarding the effect (if any) of the dissolution of the Constituent Assembly of Jammu and Kashmir on the exercise of powers by the President of India under Article 370 of the Constitution of India, was neither raised nor decided by this Hon'ble Court in *Prem Nath Kaul*. No question, therefore, of the judgment in *Sampat Prakash* being *per incuriam* would arise.
- (iii) This Hon'ble Court, in the *Prem Nath Kaul* case, only dealt with the power and jurisdiction of the then 'Yuvraj' of the State of Jammu and Kashmir to promulgate the 'Jammu & Kashmir Big Landed Estate Abolition Act' (in October, 1950). Reference to Article 370 of the Constitution of India



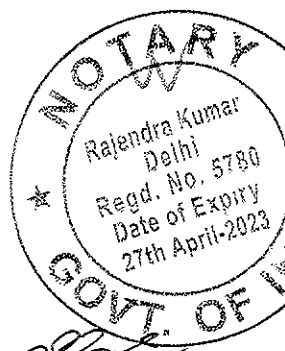
was made only in this context, as stated by the Court itself in paragraph 32 of the judgment, which begins with the following sentence:

"Since Mr Chatterjee has strongly relied on the application of Article 370 of the Constitution to the State in support of his argument that the Yuvaraj had ceased to hold the plenary legislative powers, it is necessary to examine the provisions of this article and their effect....."

(S. Sreekanth)
S. SREEKANTH
Member/Secretary
Ministry of Home Affairs
Government of India

- (iv) It would be clear on a plain reading of the judgment in *Prem Nath Kaul* that this Hon'ble Court did not deal at all with the powers of the President of India under Article 370 (as it then stood). Reliance by the petitioners herein on any of the observations in the *Prem Nath Kaul*, without reference to the context and the facts of that case, is misplaced and unjustified. It is well settled that a judgment is authority only for what it actually decides and not for what can logically be deduced from it [See, for instance, *Davinder Singh v state of Punjab* (2010) 13 SCC 88].
- (v) In any event, a more recent judgment of this Hon'ble Court in *SBI v. Santosh Gupta*, (2017) 2 SCC 538, places this matter beyond doubt. This judgment took note of the earlier decisions in *Prem Nath Kaul* as well as *Sampat Prakash*, and held, *inter alia*, that Article 370 of the Constitution of India would cease to operate only "from such date as the President may by notification declare" in terms of Article 370(3). For ready reference, the relevant observations from this judgment are set out hereunder:

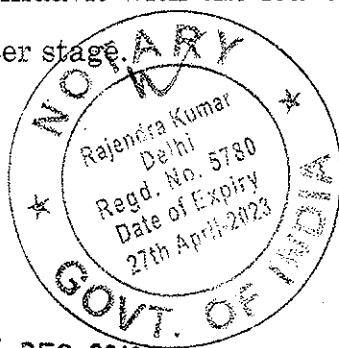
"14. The first thing that is noticed in Article 370 is that the marginal note states that it is a temporary provision with respect to the State of Jammu & Kashmir. However, unlike Article 369, which is also a temporary provision limited in point of time to five years from the commencement of this Constitution, no such limit is to be found in Article 370. Despite the fact that it is, therefore, stated to be temporary in nature, clause (3) of Article 370 makes it clear that this article shall cease to be operative only from such date as the President may by public notification declare. And this cannot be done under the proviso to Article 370(3) unless there is a recommendation of the Constituent Assembly of the State so to do." (emphasis supplied)



(सि. श्रीकांत)
(T. SREEKANTH)
निदेशक/डायरेक्टर
गृह विभाग
Ministry of Home Affairs
Govt. of India

(vi) Further, the issue raised by the J&K High Court Bar Association with regard to the absence of any treaty of merger is fallacious. In this regard, it may be noted that the Schedule 1 of the Constitution of India has always considered the erstwhile State of Jammu and Kashmir to be an integral part of Indian Union. Further, the legal apparatus prevailing in the erstwhile State also recognised the erstwhile State to be a part of India. It may further be noted that the issues concerning interpretation/dispute concerning any treaty cannot be adjudicated upon the Hon'ble Supreme Court as per Article 363.

7. I submit, based on the foregoing paragraphs, that there is no merit in the contentions raised in the petitions under reply, and the said petitions are liable to be dismissed by this Hon'ble Court. I further submit that the Union of India reserves the right to file a more detailed affidavit with the leave of this Hon'ble Court, if necessary, at a later stage.

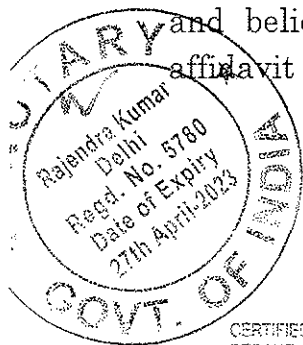


VERIFICATION

06 DEC 2019

[Signature]
6-12-19
DEPONENT
(T. SREEKANTH)
निदेशक/Director
गृह विभाग
Ministry of Home Affairs
भारत सरकार/Govt. of India

Verified at New Delhi on this 6th day of December, 2019, that the contents of the above affidavit are true and correct to my knowledge and belief derived from the official records. No part of the above affidavit is false and nothing material has been concealed there from.



CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT EXECUTIVE WHO IS SEEMED PERFECTLY
UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT
DELHI ON 06 DEC 2019 IDENTIFIED BY
06 DEC 2019
IDENTIFIED BY THE EXECUTIVE/DEPONENT WHO HAS
SIGNED IN MY PRESENCE

IDENTIFIED

BEFORE ME

RAJENDRA KUMAR
NOTARY DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No.

Ph.: 9899446209

[Signature]
6-12-19
DEPONENT
(T. SREEKANTH)
निदेशक/Director
गृह विभाग
Ministry of Home Affairs
भारत सरकार/Govt. of India

06 DEC 2019