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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

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 15th May, 1978:—

BILL No. 88 OF 1978

*A Bill further to amend the Constitution of India.*

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Forty-fifth Amendment) Act, 1978.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In article 19 of the Constitution,—

Amendment of article 19

(a) in clause (1),—

(i) in sub-clause (e), the word “and” shall be inserted at the end;

(ii) sub-clause (f) shall be omitted;

(b) in clause (5), for the words, brackets and letters “sub-clauses (d), (e) and (f)”, the words, brackets and letters “sub-clauses (d) and (e)” shall be substituted.

3. In article 22 of the Constitution,—

Amendment of article 22

(a) for clause (4), the following clause shall be substituted, namely:—

“(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than two

months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court has reported before the expiration of the said period of two months that there is in its opinion sufficient cause for such detention

Provided that an Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court:

Provided further that nothing in this clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (a) of clause (7).

*Explanation.*—In this clause, “appropriate High Court” means,—

(i) in the case of the detention of a person in pursuance of an order of detention made by the Government of India or an officer or authority subordinate to that Government, the High Court for the Union territory of Delhi;

(ii) in the case of the detention of a person in pursuance of an order of detention made by the Government of any State (other than a Union territory), the High Court for that State; and

(iii) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory or an officer or authority subordinate to such administrator, such High Court as may be specified by or under any law made by Parliament in this behalf;

(b) in clause (7),—

(i) sub-clause (a) shall be omitted;

(ii) sub-clause (b) shall be re-lettered as sub-clause (a); and

(iii) sub-clause (c) shall be re-lettered as sub-clause (b) and in the sub-clause as so re-lettered, for the words, brackets, letter and figure “sub-clause (a) of clause (4)”, the word, brackets and figure “clause (4)” shall be substituted.

Amend-  
ment of  
article 30.

4. In article 30 of the Constitution, after clause (1), the following clause shall be inserted, namely:—

“(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.”

Omission  
of sub-  
heading  
after  
article 30.

5. The sub-heading “Right to Property” occurring after article 30 of the Constitution shall be omitted.

6. Article 31 of the Constitution shall be omitted. Omission of article 31.
7. In article 31A of the Constitution, in clause (1), for the words and figures "article 14, article 19 or article 31", the words and figures "article 14 or article 19" shall be substituted. Amend- ment of article 31A.
8. In article 31C of the Constitution,—  
 (a) for the words and figures "all or any of the principles laid down in Part IV", the words, brackets, letters and figures "the principles laid down in clause (b) or clause (c) of article 39" shall be substituted;  
 (b) for the words and figures "article 14, article 19 or article 31;" the words and figures "article 14 or article 19:" shall be substituted;  
 (c) the words "and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:" shall be omitted. Amend- ment of article 31C.
9. Article 38 of the Constitution shall be renumbered as clause (1) thereof and after the clause as so renumbered, the following clause shall be inserted, namely:—  
 "(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations." Amend- ment of article 38.
10. For article 71 of the Constitution, the following article shall be substituted, namely:—  
 "71. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final. Substitu- tion of new article for article 71.  
 (2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration. Matters relating to, or connected with, the election of a President or Vice- President.  
 (3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.  
 (4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him."

Amend.  
ment of  
article 74.

11. In article 74 of the Constitution, in clause (1), the following proviso shall be inserted at the end, namely:—

“Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.”.

Amend.  
ment of  
article 77.

12. In article 77 of the Constitution, clause (4) shall be omitted.

Amend.  
ment of  
article 83.

13. (1) In article 83 of the Constitution, in clause (2), for the words “six years” in both the places where they occur, the words “five years” shall be substituted.

(2) The amendments made by sub-section (1) to clause (2) of article 83 shall apply also to the House of the People in existence on the date of coming into force of this section without prejudice to the power of Parliament with respect to the extension of the duration of that House under the proviso to that clause.

Substitu-  
tion of  
new  
article  
for  
article  
103.

14. For article 103 of the Constitution, the following article shall be substituted, namely:—

“103. (1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

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

Decision  
on  
questions  
as to  
disqualifi-  
cations of  
members.

Amend.  
ment of  
article  
105.

15. In article 105 of the Constitution, in clause (3), for the words “shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution”, the words, figures and brackets “shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fifth Amendment) Act, 1978” shall be substituted.

Amend.  
ment of  
article  
123.

16. In article 123 of the Constitution, clause (4) shall be omitted.

Amend.  
ment of  
article  
132

17. In article 132 of the Constitution,—

(a) in clause (1), for the words “if the High Court certifies”, the words, figures and letter “if the High Court certifies under article 134A” shall be substituted;

(b) clause (2) shall be omitted;

(c) in clause (3), the words “or such leave is granted,” and the words “and, with the leave of the Supreme Court, on any other ground” shall be omitted.

18. In article 133 of the Constitution, in clause (1), for the words "if the High Court certifies—", the words, figures and letter "if the High Court certifies under article 134A—" shall be substituted. Amend-  
ment of  
article  
133.
19. In article 134 of the Constitution, in sub-clause (c) of clause (1), for the word "certifies", the words, figures and letter "certifies under article 134A" shall be substituted. Amend-  
ment of  
article  
134.
20. After article 134 of the Constitution, the following article shall be inserted, namely:— Insertion  
of new  
article  
134A.
- "134A. Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134,—
- (a) may, if it deems fit so to do on its own motion; and
- (b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,
- determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) of article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case."
- Certificate  
for  
appeal to  
the  
Supreme  
Court.
21. In article 139A of the Constitution, for clause (1), the following clause shall be substituted, namely:— Amend-  
ment of  
article  
139A.
- "(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself."
22. In article 150 of the Constitution, for the words "after consultation with", the words "with the concurrence of" shall be substituted. Amend-  
ment of  
article  
150.
23. In article 166 of the Constitution, clause (4) shall be omitted. Amend-  
ment of  
article  
166.
24. (1) In article 172 of the Constitution, in clause (1), for the words "six years" in both the places where they occur, the words "five years" shall be substituted. Amend-  
ment of  
article  
172.
- (2) The amendments made by sub-section (1) to clause (1) of article 172—
- (a) shall not apply to any existing State Legislative Assembly the period of existence whereof as computed from the date appointed for its first meeting to the date of coming into force of this section

(both dates inclusive) is more than four years and eight months but every such Assembly shall, unless sooner dissolved, stand dissolved on the expiry of—

(i) a period of four months from the date of coming into force of this section; or

(ii) a period of six years from the date appointed for its first meeting,

whichever period expires earlier;

(b) shall apply to every other existing State Legislative Assembly without prejudice to the power of Parliament with respect to the extension of duration of such Assembly under the proviso to the said clause (1).

*Explanation I.*—In its application to the Legislative Assembly of the State of Sikkim referred to in clause (b) of article 371F of the Constitution, this sub-section shall have effect as if—

(i) the date appointed for the first meeting of that Assembly were the 26th day of April, 1975; and

(ii) the references in clause (a) of this sub-section to “four years and eight months” and “six years” were references to “three years and eight months” and “five years” respectively.

*Explanation II.*—In this sub-section, “existing State Legislative Assembly” means the Legislative Assembly of a State in existence on the date of coming into force of this section.

25. For article 192 of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 192.

“192. (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of article 191, the question shall be referred for the decision of the Governor and his decision shall be final.

Decision on questions as to disqualifications of members.

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

Amendment of article 194.

26. In article 194 of the Constitution, in clause (3), for the words “shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees at the commencement of this Constitution”, the words, figures and brackets “shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fifth Amendment) Act, 1978” shall be substituted.

Amendment of article 213.

27. In article 213 of the Constitution, clause (4) shall be omitted.

28. In article 217 of the Constitution, in clause (2),—

(a) in sub-clause (b) the word 'or' occurring at the end shall be omitted,

(b) sub-clause (c) shall be omitted

(c) in the Explanation, clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted namely—

“(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period after he has held any judicial office, during which the person has been an advocate of a High Court or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law.”

Amend-  
ment of  
article  
217.

29. In article 225 of the Constitution the following proviso shall be inserted at the end, namely

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

Amend-  
ment of  
article  
225

30. In article 226 of the Constitution—

(a) in clause (1) for the portion beginning with the words “writs in the nature of *habeas corpus mandamus*, prohibition, *quo warranto* and *certiorari*, or a part of them” and ending with the words “such illegality has resulted in substantial failure of justice.”, the following shall be substituted, namely,—

“writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose”.

(b) for clauses (2) (4) (5) and (6), the following clause shall be substituted, namely—

“(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1) without

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order, and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of

Amend-  
ment of  
article  
226.

such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.”;

(c) clause (7) shall be renumbered as clause (4).

Amend-  
ment of  
article  
227.

31. In article 227 of the Constitution,—

(a) for clause (1), the following clause shall be substituted, namely:—

“(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.”;

(b) clause (5) shall be omitted.

Amend-  
ment of  
article  
239B.

32. In article 239B of the Constitution, clause (4) shall be omitted.

Omis-  
sion of  
article  
257A.

33. Article 257A of the Constitution shall be omitted.

Insertion  
of new  
Chapter  
IV in  
Part XII.

34. In Part XII of the Constitution, after Chapter III, the following Chapter shall be inserted, namely:—

“CHAPTER IV.—RIGHT TO PROPERTY

Persons  
not to be  
deprived  
of pro-  
perty save  
by au-  
thority of  
law.

300A. No person shall be deprived of his property save by authority of law.”.

Omission  
of Part  
XIVA.

35. Part XIVA of the Constitution shall be omitted.

Amend-  
ment of  
article  
329.

36. In article 329 of the Constitution, in the opening portion, the words, figures and letter “but subject to the provisions of article 329A” shall be omitted.

Omission  
of article  
329A.

37. Article 329A of the Constitution shall be omitted.

Amend-  
ment of  
article  
352.

38. In article 352 of the Constitution,

(a) in clause (1),—

(i) for the words “internal disturbance”, the words “armed rebellion” shall be substituted;

(ii) the following Explanation shall be inserted at the end, namely:—

*“Explanation.—A Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression or by armed rebellion may be made before the actual occurrence of war or of any such aggression or rebellion, if the President is satisfied that there is imminent danger thereof.”;*

(b) for clauses (2), (2A) and (3), the following clauses shall be substituted, namely:—

“(2) A Proclamation issued under clause (1) may be varied or revoked by a subsequent Proclamation.

(3) The President shall not issue a Proclamation under clause (1) or a Proclamation varying such Proclamation unless the decision of the Union Cabinet (that is to say, the Council consisting of the Prime Minister and other Ministers of Cabinet rank appointed under article 75) that such a Proclamation may be issued has been communicated to him in writing.

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

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

(5) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4):

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate under this clause:

Provided further that if the dissolution of the House of the People takes place during any such period of six months and a

resolution approving the continuance in force of such Proclamation has been passed by the Council of States but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days, a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People.

(6) For the purposes of clauses (4) and (5), a resolution may be passed by either House of Parliament only by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting.

(7) Notwithstanding anything contained in the foregoing clauses, the President shall revoke a Proclamation issued under clause (1) or a Proclamation varying such Proclamation if the House of the People passes a resolution disapproving, or, as the case may be, disapproving the continuance in force of, such Proclamation.

(8) Where a notice in writing signed by not less than one-tenth of the total number of members of the House of the People has been given, of their intention to move a resolution for disapproving, or, as the case may be, for disapproving the continuance in force of, a Proclamation issued under clause (1) or a Proclamation varying such Proclamation,—

(a) to the Speaker, if the House is in session; or

(b) to the President, if the House is not in session,

a special sitting of the House shall be held within fourteen days from the date on which such notice is received by the Speaker, or, as the case may be, by the President, for the purpose of considering such resolution.”;

(c) clause (4) shall be renumbered as clause (9) and in the clause as so renumbered, for the words “internal disturbance” in both the places where they occur, the words “armed rebellion” shall be substituted;

(d) clause (5) shall be omitted.

Amend-  
ment of  
article  
356.

39. In article 356 of the Constitution,—

(a) in clause (4),—

(i) for the words, brackets and figure “one year from the date of the passing of the second of the resolutions approving the Proclamation under clause (3)”, the words “six months from the date of issue of the Proclamation” shall be substituted;

(ii) in the first proviso, for the words “one year”, the words “six months” shall be substituted;

(iii) in the second proviso, for the words “one year”, the words “six months” shall be substituted;

(b) for clause (5) the following clause shall be substituted, namely:—

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

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

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

40 Article 358 of the Constitution shall be renumbered as clause (1) of that article and—

Amendment of article 358.

(a) in clause (1) as so renumbered,—

(i) in the opening portion, for the words “While a Proclamation of Emergency is in operation”, the words “While a Proclamation of Emergency declaring that the security of India or any part of the territory thereof is threatened by war or by external aggression is in operation” shall be substituted;

(ii) in the proviso, for the words “where a Proclamation of Emergency” the words “where such Proclamation of Emergency” shall be substituted;

(b) after clause (1) as so renumbered, the following clause shall be inserted, namely:—

“(2) Nothing in clause (1) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.”.

41. In article 359 of the Constitution,—

Amendment of article 359.

(a) in clauses (1) and (1A), for the words and figures “the rights conferred by Part III”, the words, figures and brackets “the rights conferred by Part III (except article 21)” shall be substituted;

(b) after clause (1A), the following clause shall be inserted, namely:—

“(1B) Nothing in clause (1A) shall apply—

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital.”.

Amend-  
ment of  
article  
360.

42. In article 360 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, namely:—

“(2) A Proclamation issued under clause (1)—

(a) may be revoked or varied by a subsequent Proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation is issued at a time when the House of the People has been dissolved or the dissolution of the House of the People takes place during the period of two months referred to in sub-clause (c), and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, unless before the expiration of the said period of thirty days a resolution approving the Proclamation has been also passed by the House of the People.”;

(b) clause (5) shall be omitted.

Insertion  
of new  
article  
361A.

Protection  
of publi-  
cation of  
proceed-  
ings of  
Parlia-  
ment and  
State Le-  
gislatures.

43. After article 361 of the Constitution, the following article shall be inserted, namely:—

‘361A. (1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of the proceedings of a secret sitting of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature, of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

*Explanation.*—In this article, “newspaper” includes a news agency report containing material for publication in a newspaper.’

44. Article 366 of the Constitution shall be renumbered as clause (2) of that article, and before clause (2) as so renumbered, the following clause shall be inserted, namely:—

Amendment of article 366.

(1) In the Preamble to this Constitution,—

(1) the expression "REPUBLIC" as qualified by the expression "SECULAR", means a republic in which there is equal respect for all religions; and

(2) the expression "REPUBLIC", as qualified by the expression "SOCIALIST", means a republic in which there is freedom from all forms of exploitation, social, political and economic.

45. In article 368 of the Constitution,—

Amendment of article 368.

(a) in clause (2), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that if such amendment—

(a) seeks to make any change which, if made, would have the effect of—

(i) impairing the secular or democratic character of this Constitution; or

(ii) abridging or taking away the rights of citizens under Part III, or

(iii) prejudicing or impeding free and fair elections to the House of the People or the Legislative Assemblies of States on the basis of adult suffrage; or

(iv) compromising the independence of the judiciary; or

(b) seeks to amend this proviso,

the amendment shall also require to be approved by the people of India at a referendum under clause (4).";

(b) for clauses (4) and (5), the following clauses shall be substituted, namely:—

"(4) The referendum for the purpose of seeking the approval of the people of India for any amendment of the nature referred to in the second proviso to clause (2) shall be through a poll, and—

(i) all persons who are for the time being eligible to be voters under article 326 at elections to the House of the People shall be entitled to vote at such poll; and

(ii) any such amendment shall be deemed to have been approved by the people of India if such amendment is approved by a majority of the voters voting at such poll and the voters voting at such poll constitute not less than fifty-one per cent. of the voters entitled to vote at such poll.

(5) The superintendence, direction and control of the preparation of the rolls of voters for, and the conduct of, every referendum under this article shall vest in the Election Commission and the result of such referendum as declared by the Election Commission shall not be called in question in any court.

(6) Subject to the provisions of clauses (4) and (5), Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, referenda under this article, including the preparation of the rolls of voters.”.

Amendment of article 371F.

46. In article 371F of the Constitution, in clause (c), for the words “six years”, the words “five years” shall be substituted, and for the words “five years” in both the places where they occur, the words “four years” shall be substituted.

Amendment of the Seventh Schedule.

47. In the Seventh Schedule to the Constitution,—

(a) in List I—Union List, entry 2A shall be omitted

(b) in List II—State List,—

(i) in entry 1, for the words “the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof”, the words “the use of naval, military or air forces or any other armed forces of the Union” shall be substituted;

(ii) for entry 2, the following entry shall be substituted, namely:—

“2. Police, including railway and village police”;

(iii) after entry 10, the following entry shall be inserted, namely:—

“11. Education, including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.”;

(iv) after entry 18, the following entry shall be inserted, namely:—

“19. Forests.”;

(v) in entry 41, for the words “State public services”, the words, figures and letter “State public services subject to the provisions of entry 11B of List III” shall be substituted;

(c) in List III—Concurrent List,—

(i) after entry 11A, the following entry shall be inserted, namely:—

“11B. Adjudication or trial by tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of a State or of a local or other authority subject to the control of a State Government.”;

(ii) entry 17A shall be omitted;

(iii) for entry 25, the following entry shall be substituted, namely:—

“25 Vocational and technical training of labour.”.

48. In the Ninth Schedule to the Constitution, entries 87, 92 and 130 shall be omitted.

Amend-  
ment of  
the  
Ninth  
Schedule.

49. In the Constitution (Forty-second Amendment) Act, 1976, sections 18, 19, 21, 22, 31, 32, 34, 35, 58 and 59 shall be omitted.

Amend-  
ment of  
the Consti-  
tution  
(Forty-  
second  
Amend-  
ment)  
Act, 1976

**STATEMENT OF OBJECTS AND REASONS**

Recent experience has shown that the fundamental rights, including those of life and liberty granted to citizens by the Constitution are capable of being taken away by a transient majority. It is, therefore, necessary to provide adequate safeguards against the recurrence of such a contingency in the future and to ensure to the people themselves an effective voice in determining the form of government under which they are to live. This is one of the primary objects of this Bill.

2. It is, therefore, proposed to provide that certain changes in the Constitution which would have the effect of impairing its secular or democratic character, abridging or taking away fundamental rights prejudicing or impeding free and fair elections on the basis of adult suffrage and compromising the independence of judiciary, can be made only if they are approved by the people of India by a majority of votes at a referendum in which at least fifty-one per cent. of the electorate participate. Article 368 is being amended to ensure this.

3. In view of the special position sought to be given to fundamental rights, the right to property, which has been the occasion for more than one amendment of the Constitution, would cease to be a fundamental right and become only a legal right. Necessary amendments for this purpose are being made to article 19 and article 31 is being deleted. It would, however, be ensured that the removal of property from the list of fundamental rights would not affect the right of minorities to establish and administer educational institutions of their choice.

4. Similarly, the right of persons holding land for personal cultivation and within the ceiling limit to receive compensation at the market value would not be affected.

5. Property, while ceasing to be a fundamental right, would, however, be given express recognition as a legal right, provision being made that no person shall be deprived of his property save in accordance with law.

6. A Proclamation of Emergency under article 352 has virtually the effect of amending the Constitution by converting it for the duration into that of a Unitary State and enabling the rights of the citizen to move the courts for the enforcement of fundamental rights—including the right to life and liberty—to be suspended. Adequate safeguards are, therefore, necessary to ensure that this power is properly exercised and is not abused. It is, therefore, proposed that a Proclamation of Emergency can be issued only when the security of India or any part of its territory is threatened by war or external aggression or by armed rebellion. Internal disturbance not amounting to armed rebellion would not be a ground for the issue of a Proclamation.

7. Further, in order to ensure that a Proclamation is issued only after due consideration, it is sought to be provided that an Emergency can be proclaimed only on the basis of written advice tendered to the President by the Cabinet. In addition, as a Proclamation of Emergency virtually has the effect of amending the Constitution, it is being provided that the Proclamation would have to be approved by the two Houses of Parliament by the same majority which is necessary to amend the Constitution and such approval would have to be given within a period of one month. Any such Proclamation would be in force only for a period of six months

and can be continued only by further resolutions passed by the same majority. The Proclamation would also cease to be in operation if a resolution disapproving the continuance of the Proclamation is passed by Lok Sabha. Ten per cent. or more of the Members of Lok Sabha can requisition a special meeting for considering a resolution for disapproving the Proclamation.

8. As a further check against the misuse of the Emergency provisions and to put the right to life and liberty on a secure footing, it would be provided that the power to suspend the right to move the court for the enforcement of a fundamental right cannot be exercised in respect of the fundamental right to life and liberty. The right to liberty is further strengthened by the provision that a law for preventive detention cannot authorise, in any case, detention for a longer period than two months, unless an Advisory Board has reported that there is sufficient cause for such detention. An additional safeguard would be provided by the requirement that the Chairman of an Advisory Board shall be a serving Judge of the appropriate High Court and that the Board shall be constituted in accordance with the recommendations of the Chief Justice of that High Court.

9. A special provision is being made guaranteeing the right of the media to report freely and without censorship the proceedings in Parliament and the State Legislatures. The provision with regard to the breakdown of the constitutional machinery in the States is being amended so as to provide that a Proclamation issued under article 356 would be in force only for a period of six months in the first instance and that it cannot exceed one year ordinarily. However, if a Proclamation of Emergency is in operation and the Election Commission certifies that the extension of the President's rule beyond a period of one year is necessary on account of difficulties in holding elections to the Legislative Assembly of the State concerned, the period of operation of the Proclamation can be extended beyond one year. This is subject to the existing limit of three years. These changes would ensure that democratic rule is restored to a State after the minimum period which will be necessary for holding elections.

10. With a view to avoiding delays, it is proposed to amend articles 132, 133 and 134 and insert a new article 134A to provide that a High Court should consider the question of granting a certificate for appeal to Supreme Court immediately after the delivery of the judgment, decree, final order or sentence concerned on the basis of an oral application by a party or, if the High Court deems fit so to do, on its own motion. Cases of special leave to appeal by Supreme Court will be left to be regulated exclusively by article 136.

11. The other amendments proposed in the Bill are mainly for removing or correcting the distortions which came into the Constitution by reason of amendments enacted during the period of the Internal Emergency.

12. The Bill seeks to achieve the above objects. The notes on clauses explain in detail the various provisions of the Bill.

NEW DELHI;  
The 9th May, 1978.

SHANTI BHUSHAN

*Notes on clauses*

1. *Clauses 2, 4, 5, 6, 7, sub-clause (b) of clause 8 and clause 34.*—The object of the amendments proposed in these provisions is to take away the right to property from the category of fundamental rights and make the same a right which can be regulated by ordinary law. Clause 2(a)(ii) seeks to omit sub-clause (f) of clause (1) of article 19 which guarantees to citizens the right to acquire, hold and dispose of property. Clause 6 seeks to omit article 31 relating to the right to property. The safeguard contained in article 31 relating to acquisition of property of an educational institution established and administered by a minority is sought to be incorporated in article 30 by the amendment to that article proposed in clause 4. Clause 34 seeks to insert a new article 300A in Part XII of the Constitution to provide that no person shall be deprived of his property save by authority of law. The amendments proposed in clause 2(a)(i), clause 2(b), clause 5, clause 7 and clause 8(b) are of a consequential nature.

2. *Clause 3.*—This clause seeks to amend the provisions as to preventive detention contained in article 22—

(a) for restricting the maximum period for which a person may be detained without obtaining the opinion of the Advisory Board from three months to two months;

(b) for providing that an Advisory Board shall consist of a Chairman and not less than two other members, that the composition of an Advisory Board shall be in accordance with the recommendations of the Chief Justice of the appropriate High Court (that is to say, the High Court for Delhi in the case of detention orders made by the Central Government or officers subordinate to the Central Government; the High Court for a State in the case of detention orders made by a State Government or officers subordinate to a State Government; and such High Court as may be specified by Parliament by law in the case of orders of detention made by the Administrator of a Union territory or officers subordinate to him), and that the Chairman of an Advisory Board shall be a sitting Judge of the appropriate High Court and the other members of an Advisory Board shall be sitting or retired Judges of any High Court; and

(c) for abolishing the system of preventive detention without reference to an Advisory Board provided in sub-clause (a) of clause (7) of article 22.

3. *Clauses 4, 5, 6 and 7.*—See paragraph 1 above.

4. *Clause 8.*—The amendment proposed in sub-clause (a) of this clause, is for confining the protection afforded by article 31C only to laws giving effect to the policy of the State towards securing the directive principles specified in clauses (b) and (c) of article 39. This would have the effect of restoring the article to the form in which it stood before the amendment made to the article by the Constitution (Forty-second Amendment)

Act, 1976 came into force. The amendment proposed in sub-clause (b) is consequential to the omission of article 31 (see paragraph 1 above). The amendment proposed in sub-clause (c) is for omitting the portion relating to declaration contained in article 31C which was struck down by the Supreme Court in *Kesavananda Bharati vs. the State of Kerala* (1973 Supp. SCR 1).

5. *Clause 9.*—This clause seeks to insert a new directive principle in article 38 to the effect that the State shall strive to minimise inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

6. *Clause 10.*—Article 71 as originally enacted gave jurisdiction to the Supreme Court to inquire into all doubts and disputes arising out of or in connection with the election of a President or Vice-President. The Constitution (Thirty-ninth Amendment) Act, 1975, substituted the article by a new article leaving it to Parliament to determine the authority or body which may inquire into such doubts and disputes. This clause seeks to restore the position as it obtained before the Constitution (Thirty-ninth Amendment) Act, 1975, came into force.

7. *Clause 11.*—This clause seeks to amend clause (1) of article 74 of the Constitution to provide that the President may require the Council of Ministers to reconsider any advice tendered by them and that the President shall act in accordance with the advice tendered after such reconsideration.

8. *Clauses 12 and 23.*—The Constitution (Forty-second Amendment) Act included a new clause (4) in article 77 and a new clause (4) in article 166 to take away the power of courts to compel production of rules relating to transaction of the business of the Government of India and the Government of a State. Clause 12 seeks to omit the said clause (4) of article 77 while clause 23 seeks to omit the said clause (4) of article 166.

9. *Clauses 13, 24 and 46.*—These clauses seek to amend articles 83, 172 and 371F respectively of the Constitution to restore the term of the Lok Sabha and the State Legislative Assemblies to five years with necessary saving provisions.

10. *Clauses 14 and 25.*—These clauses seek to substitute articles 103 and 192 (relating respectively to decisions on questions as to disqualification of Members of Parliament and State Legislatures) to provide that decisions on questions as to disqualification of Members shall be in accordance with the opinion of the Election Commission and thereby restore the position as it obtained prior to the Constitution (Forty-second Amendment) Act.

11. *Clauses 15 and 26.*—These clauses seek to amend article 105 and article 194 (relating respectively to the privileges of Houses of Parliament and of State Legislatures). The amendments are for the purpose of omitting the references to the House of Commons in these articles.

12. *Clauses 16, 27 and 32.*—The Constitution (Thirty-eighth Amendment) Act, 1975, inserted a new clause (4) in article 123, article 213 and article 239B (relating respectively to the powers of the

President, Governor of a State and Administrator of a Union territory to promulgate Ordinances) to specify expressly that the satisfaction of the President, Governor or Administrator regarding the existence of the circumstances necessary for taking immediate action by promulgation of an Ordinance shall be final and conclusive. The said new clauses are proposed to be omitted.

13. *Clauses 17, 18, 19 and 20.*—At present appeal lies under article 132 of the Constitution to the Supreme Court in certain cases upon the High Court granting a certificate under that article. Where the High Court has refused to give such a certificate, the Supreme Court may grant special leave. Under article 133, appeal lies to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court if the High Court grants a certificate under that article. Under article 134(1)(c), an appeal lies to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court if the High Court grants a certificate that the case is a fit one for appeal to the Supreme Court. It is proposed to amend articles 132, 133 and 134 and insert a new article 134A to provide that the High Court should consider the question of granting of certificate immediately on the delivery of the judgment, decree, final order, or sentence concerned on the basis of an oral application by a party or, if the High Court deems it fit so to do, on its own motion. It is also proposed to omit the provisions in article 132 relating to grant of special leave by Supreme Court in cases where the High Court refuses to give a certificate. Cases of special leave to appeal by Supreme Court will thus be left to be regulated exclusively by article 136 of the Constitution.

14. *Clause 21.*—This relates to article 139A which was inserted by the Constitution (Forty-second Amendment) Act. Under clause (1) of this article, if the Supreme Court is satisfied, on an application made by the Attorney-General of India, that cases involving the same or substantially the same questions of law are pending before it and one or more High Courts or before two or more High Courts and that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court or the High Courts and dispose of all the cases itself. The Supreme Court can take action under this provision only if an application is made by the Attorney-General. Clause (1) of article 139A is sought to be amended so as to enable a party to any such case also to make a similar application to the Supreme Court.

15. *Clause 22.*—Under article 150, as amended by the Constitution (Forty-second Amendment) Act, the form in which accounts of the Union and the States shall be kept shall be such as may be prescribed by the President after consultation with the Comptroller and Auditor-General of India. This clause seeks to amend article 150 to provide that the form should be prescribed with the concurrence of the Comptroller and Auditor-General and not merely after consultation.

16. *Clause 23.*—See paragraph 8 above.

17. *Clause 24.*—See paragraph 9 above.

18. *Clause 25.*—See paragraph 10 above.

19. *Clause 26.*—See paragraph 11 above.

20. *Clause 27.*—See paragraph 12 above.

21. *Clause 28.*—Sub-clause (b) of this clause seeks to omit sub-clause (c) of clause (2) of article 217 of the Constitution which was inserted by the Constitution (Forty-second Amendment) Act for making persons who, in the opinion of the President, are distinguished jurists, eligible for appointment as Judges of High Courts. The amendment proposed in sub-clause (a) of this clause is of a consequential and drafting nature.

Sub-clause (c) of this clause seeks to amend the *Explanation* to clause (2) of article 217 for the purpose of removing an anomaly. Under clause (a) of the *Explanation* as it exists now, any period during which a person has, after becoming an advocate, held judicial office or the office of the member of a tribunal or any post, under the Union or a State, requiring special knowledge of law will be included in computing the period during which he has been an advocate for the purposes of determining his eligibility for appointment as a Judge of a High Court. There is no corresponding provision in the *Explanation* in relation to a person who started as a Judge without being an advocate and who subsequently became an advocate or a member of a tribunal or the holder of any post under the Union or a State requiring special knowledge of law.

22. *Clause 29.*—The proviso to article 225 of the Constitution as originally enacted was intended to remove the bar that existed before the commencement of the Constitution in respect of the original jurisdiction of the High Courts in revenue matters. The Constitution (Forty-second Amendment) Act omitted this proviso. This clause seeks to restore the said proviso.

23. *Clause 30.*—Subject to a modification, this clause seeks to restore, article 226 to the form in which it was prior to its amendment by the Constitution (Forty-second Amendment) Act. The modification is for the purpose of providing that in cases in which an interim order is made, *ex parte*, on or in any proceedings relating to a petition under article 226, the party against whom such order is made may make an application to the High Court for the vacation of such order and furnish a copy of such application to the party in whose favour such order has been made or the counsel of such party. It is also being provided that if the High Court fails to dispose of the application within a period of two weeks from the date on which it is received by the High Court or from the date on which the copy of such application is furnished to the party against whom it is made, whichever is later, the interim order shall, on the expiry of the said period, stand vacated. Where the High Court is closed on the last day of the said period, the interim order will stand vacated only if the application is not disposed of before the expiry of the next day on which the High Court is open.

24. *Clause 31.*—This clause seeks to restore article 227 of the Constitution (relating to power of superintendence of High Court) to the form in which it was prior to its amendment by the Constitution (Forty-second Amendment) Act.

25. *Clause 32.*—See paragraph 12 above.

26. *Clause 33.*—This clause seeks to omit article 257A of the Constitution relating to deployment of armed forces or other forces of the Union to States. The said article was inserted in the Constitution by the Constitution (Forty-second Amendment) Act.

27. *Clause 34.*—See paragraph 1 above.

28. *Clause 35.*—This clause seeks to omit Part XIVA of the Constitution relating to administrative tribunals and tribunals for other matters in place of High Courts. The said Part XIVA was inserted by the Constitution (Forty-second Amendment) Act.

29. *Clauses 36 and 37.*—Clause 37 seeks to omit article 329A relating to special provisions as to elections to Parliament in the case of Prime Minister and Speaker. The said article 329A was inserted by the Constitution (Thirty-ninth Amendment) Act, 1975. The amendment to article 329 proposed in clause 36 is of a consequential nature and is for the purpose of omitting the reference therein to article 329A.

30. *Clause 38.*—This clause seeks to amend article 352 relating to Proclamation of Emergency to provide for various safeguards against abuse of powers under the article. In the first place, the ground of “internal disturbance” is being substituted by the ground of “armed rebellion” to exclude scope for Proclamation of Emergency in cases of internal disturbance not involving armed rebellion. In the second place, it is being provided that the President shall not issue a Proclamation of Emergency unless the decision of the Cabinet that such a Proclamation may be issued has been communicated to him in writing. In the third place, it is being provided that a Proclamation of Emergency would require to be approved within a period of one month (instead of two months as provided at present) by resolution of both the Houses of Parliament and that such resolution should be by a majority of the total membership of each House and not less than two-thirds of the majority of the members present and voting in each House instead of a simple majority provided at present. In the fourth place, it is being provided that for the continuance of the Emergency, approval by resolution of both Houses would be required every six months. In the fifth place, provision is being made that a Proclamation of Emergency would cease to be operative whenever a resolution to that effect is adopted by the Lok Sabha by a simple majority of the members of the House present and voting. It is also being provided that not less than one-tenth of the total membership of the Lok Sabha may, by notice, requisition a meeting of the Lok Sabha for the purpose of considering the continuance of a Proclamation of Emergency.

Provision has also been made for the omission of clause (5) of article 352, which was inserted by the Constitution (Thirty-eighth Amendment) Act, 1975 and which makes the satisfaction of the President as to the existence of a grave Emergency necessitating the issue of a Proclamation of Emergency final.

31. *Clause 39.*—This clause seeks to amend article 356 of the Constitution relating to the President's power to issue a Proclamation in case of failure of constitutional machinery in a State. The article is being amended to specify that such a Proclamation will, upon its being approved first by resolutions by both Houses, continue for six months from the date of issue of Proclamation and that upon its being approved likewise on a second occasion, it would continue for a further period of six months. The article is also being amended to specify that a resolution

with respect to the continuance in force of a Proclamation under the article for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless a Proclamation of Emergency is in operation at the time of the passing of such resolution and the Election Commission certifies that the continuance in force of the Proclamation under the article during the period specified in such resolution is necessary on account of difficulties in holding elections to the Legislative Assembly of the State concerned.

32. *Clause 40.*—This clause seeks to amend article 358 relating to the suspension of provisions of article 19 during Emergencies. By virtue of the amendments, the provisions of article 19 will become suspended only in the case of a Proclamation of Emergency issued on the ground of war or external aggression and not in the case of a Proclamation of Emergency issued on the ground of armed rebellion. Further, the suspension of article 19 under article 358 will not apply in relation to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made or to any executive action taken otherwise than under a law containing such a recital.

33. *Clause 41.*—This clause seeks to make two amendments to article 359 of the Constitution relating to suspension of the enforcement of the rights conferred by Part III during Emergencies. The first amendment is for providing that the enforcement of the right to life and personal liberty under article 21 cannot be suspended. The second amendment is for providing that the suspension of the enforcement of any right under the article will not apply in relation to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made or to any executive action taken otherwise than under a law containing such a recital.

34. *Clause 42.*—This clause seeks to make two amendments in article 360 of the Constitution. The first amendment is of a drafting nature and is for the purpose of making the provisions of clause (2) of article 360 self-contained. At present the said clause (2) incorporates by reference the provisions of clause (2) of article 352. Since clause (2) of article 352 is being amended, it has become necessary to make clause (2) of article 360 self-contained. The second amendment is for omitting clause (5) of article 360 which was inserted by the Constitution (Thirty-eighth Amendment) Act and which makes the satisfaction of the President as to the arising of a situation whereby the financial stability or credit of India or any part of the territory thereof is threatened, final and conclusive.

35. *Clause 43.*—This clause seeks to insert a new article 361A in the Constitution. The new article provides for constitutional protection in respect of publication of proceedings of Parliament and of State Legislatures. The protection will not be available in respect of proceedings of secret sittings.

36. *Clause 44.*—This clause seeks to amend article 366 of the Constitution to include therein provisions for explaining the significance of the expressions "SECULAR" and "SOCIALIST" as used in the Preamble.

37. *Clause 45*—This clause seeks to amend article 368 of the Constitution relating to the power of Parliament to amend the Constitution. Apart from omitting clauses (4) and (5) which were inserted in the article by the Constitution (Forty-second Amendment) Act, 1976, for taking away the jurisdiction of the courts in respect of validity of constitutional amendments, this clause seeks to provide that amendments which would have the effect of—

(a) impairing the secular or democratic character of the Constitution; or

(b) abridging or taking away the rights of citizens under Part III; or

(c) prejudicing or impeding free and fair elections to the House of the People or the Legislative Assemblies of the States on the basis of adult suffrage; or

(d) compromising the independence of the judiciary,

would require to be approved by the people of India at a referendum. Any amendment for modifying or omitting the requirement as to such referendum would also require to be approved at such a referendum. In place of the existing clauses (4) and (5) of article 368, sub-clause (b) of clause 45 seeks to substitute three new clauses (4), (5) and (6). New clause (4) provides that every referendum will be through a poll. All persons eligible to be voters at elections to Lok Sabha will be eligible to vote. If fifty one per cent. or more of the eligible voters vote at such a poll and a majority of the voters voting at such a poll approve an amendment, the amendment will be deemed to have been approved. New clause (5) seeks to vest the superintendence, direction and control of referenda in the Election Commission. The result of a referendum as declared by the Election Commission will be final. New clause (6) seeks to empower Parliament to provide by law for matters relating to or in connection with referenda.

38. *Clause 46*.—See paragraph 9.

39. *Clause 47*.—This clause seeks to amend the Seventh Schedule to the Constitution. Sub-clause (a) of this clause seeks to omit entry 2A of the Union List relating to deployment of armed forces of the Union to States. The omission is consequential to the omission of article 257A (See paragraph 26 above).

Sub-clause (b) seeks to amend the State List. The amendments proposed in items (i) and (ii) to entries 1 and 2 of the State List are consequential to the proposed omission of entry 2A of the Union List. The amendments proposed in items (iii) and (iv) are for including the entries relating to education and forest in the State List and for restoring the position as it obtained before the Constitution (Forty-second Amendment) Act. The amendment in item (v) to entry 41 of the State List is consequential to the insertion of a new entry 11B in the Concurrent List under sub-clause (c) (i)

Sub-clause (c).—Item (i) of this sub-clause seeks to insert a new entry relating to adjudication or trial by tribunals of disputes and complaints with respect to recruitment and conditions of service of persons

appointed to public services and posts in connection with the affairs of a State or of a local or other authority subject to the control of a State Government. The proposed entry and entry 70 of the Union List will facilitate the creation of common tribunals for adjudication or trial of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of a State or of a local or other authority subject to the control of the Central Government or a State Government.

Item (ii) of sub-clause (c) seeks to omit entry 17A of the Concurrent List relating to forests and it is consequential to the inclusion of forests in the State List.

Item (iii) of sub-clause (c) seeks to substitute a new entry for entry 25 of the Concurrent List and it is consequential to the inclusion of education in the State List.

40. *Clause 48.*—This clause seeks to amend the Ninth Schedule for omitting entries 87 [the Representation of the People Act, 1951, the Representation of the People (Amendment) Act, 1974, and the Election Laws (Amendment) Act, 1975], 92 (the Maintenance of Internal Security Act, 1971) and 130 (the Prevention of Publication of Objectionable Matter Act, 1976).

41. *Clause 49.*—Sections 18, 19, 21, 22, 31, 32, 34 and 35 of the Constitution (Forty-second Amendment) Act, have not been brought into force. In addition to omitting these sections, this clause seeks to omit section 58 (special provisions as to pending petitions under article 226) and section 59 (power of the President to remove difficulties) of the said Act.