

## STATEMENT OF OBJECTS AND REASONS

In order to implement the scheme of States reorganisation, it is necessary to make numerous amendments in the Constitution with effect from the 1st October, 1956. This Bill seeks to make these amendments and also some other amendments to certain provisions of the Constitution relating to the High Courts and High Court Judges, the executive power of the Union and the States, and a few entries in the legislative lists. The reasons for making the amendments are indicated below.

*Clause 2.*—The reorganisation scheme involves not only the establishment of new States and alterations in the area and boundaries of the existing States, but also the abolition of the three categories of States (Part A, Part B and Part C States) and the classification of certain areas as Union territories. Article 1 has to be suitably amended for this purpose and the First Schedule completely revised.

*Clause 3.*—The amendments proposed in article 80 are formal and consequential. The territorial changes and the formation of new States and Union territories as proposed in Part II of the States Reorganisation Bill, 1956, involve a complete revision of the Fourth Schedule of the Constitution by which the seats in the Council of States are allocated to the existing States. The present allocation is made on the basis of the population of each State as ascertained at the census of 1941 and the number of seats allotted to each Part A and Part B State is according to the formula, one seat per million for the first five millions and one seat for every additional two millions or part thereof exceeding one million. It is proposed to revise the allocation of seats on the basis of the latest census figures, but according to the same formula as before.

*Clause 4.*—The abolition of Part C States as such and the establishment of Union territories make extensive amendment of articles 81 and 82 inevitable. The provision in article 81(1) (b) that “the States shall be divided, grouped or formed into territorial constituencies” will no longer be appropriate, since after reorganisation each of the States will be large enough to be divided into a number of constituencies and will not permit of being grouped together with other States for this purpose or being “formed” into a single territorial constituency. Clause (2) of article 81 and article 82 will require to be combined and revised in order to make suitable provision for Union territories. Instead of amending the articles piecemeal, it is proposed to revise and simplify them. Incidentally, it is proposed in clause (1) (b) of the revised article 81 to fix a maximum for the total number of representatives that may be assigned to the Union territories by Parliament.

*Clause 5.*—The proposed revision of the proviso to article 131 is consequential on the disappearance of Part B States as such. The two parts of the existing proviso have been combined.

*Clause 6.*—Article 153 provides that there shall be a Governor for each State. Since it may be desirable in certain circumstances to appoint a Governor for two or more States, it is proposed to add a proviso to this article to remove any possible technical bar to such an appointment.

*Clause 7.*—Sub-clause (a) of clause (1) of article 168 provides for bi-cameral legislatures in certain States. It is proposed that, among the reorganised States, Punjab and Mysore should continue to have such a legislature, and that the enlarged Madhya Pradesh should also be provided with one. Since the constitution of a Legislative Council for Madhya Pradesh will necessarily take time, it is proposed to bring the relevant amendment of article 168 (1) (a) into force from a future date by means of a public notification of the President.

*Clause 8.*—This seeks to revise article 170 mainly with a view to bringing it into line with articles 81 and 82 as revised by clause 4.

*Clause 9.*—Under clause (1) of article 171, the maximum strength of the Legislative Council of a State is fixed at one-fourth of the strength of the Legislative Assembly of that State. Although in the larger States, like Uttar Pradesh and Bihar, this maximum is adequate, it leads to difficulties in the case of the smaller States. It is, therefore, proposed to alter the maximum to one-third of the strength of the Legislative Assembly.

*Clause 10.*—Article 216 empowers the President to appoint to a High Court as many judges as he may from time to time deem it necessary and also to fix the maximum number of judges for each High Court by a separate order. The proviso is of little significance from the practical point of view, since the order fixing the maximum may be changed by the President whenever necessary. The appointment of additional and acting judges for which provision is sought to be made in clause 14 will also involve either frequent modifications in the order or a fixation of the maximum number at a high figure. It is, therefore, proposed to omit the proviso to article 216.

*Clause 11.*—The amendment of clause (1) of article 217 proposed in this clause is consequential on the proposal to provide for the appointment of additional and acting judges for limited periods.

*Clause 12.*—An important factor affecting the selection of High Court Judges from the bar is the total prohibition contained in article 220 on practice after their retirement from the bench. It is proposed to revise the article so as to relax this complete ban and permit a retired judge to practise in the Supreme Court and in any High Court other than the one in which he was a permanent judge.

*Clause 13.*—Article 222 empowers the President to transfer judges from one High Court to another. Clause (2) of this article goes on to provide that when a judge is so transferred he shall be entitled to receive in addition to his salary a compensatory allowance. It is felt that there is no real justification for granting such an allowance and it is accordingly proposed to omit clause (2).

*Clause 14.*—The provision in article 224 for recalling retired judges to function on the bench of a High Court for short periods has been found to be neither adequate nor satisfactory. It is, therefore, proposed to replace this article by a provision for the appointment of additional judges to clear off arrears and for the appointment of acting judges in temporary vacancies.

*Clause 15.*—It is proposed to revise and simplify articles 230, 231 and 232 having regard to the constitutional position of States and Union territories after reorganisation. While under article 214 there will normally be a separate High Court for each State, power will be required to establish common High Courts for two or more States. Power will also be required to extend the jurisdiction of a High Court to a Union territory, wherever necessary, and to exclude the jurisdiction of a High Court from such territory. The revised articles 230 and 231 are designed to make these provisions.

*Clause 16.*—Part VIII of the Constitution provides for the administration of Part C States and Part IX for the administration of Part D territories. It is proposed to amend Part VIII to provide for the administration of Union territories and to repeal Part IX.

*Clause 17.*—While the President is empowered by article 258 (1) to entrust Union functions to a State Government or its officers there is no corresponding provision enabling the Governor of a State to entrust State functions to the Central Government or its officers. This lacuna has been found to be of practical consequence in connection with the execution of certain development projects in the States. It is proposed to fill the lacuna by a new article 258A.

*Clause 18.*—Article VIII of the Covenant entered into by the Rulers of Travancore and Cochin in May, 1949, for the formation of the United State of Travancore and Cochin provided that Travancore's obligation to contribute annually a sum of Rs. 51 lakhs to

the Travancore Devaswom Fund should continue as an obligation of the United State. This arrangement was confirmed by article 238(10) (ii) of the Constitution. It is proposed that the existing arrangement should be continued even after the formation of the new State of Kerala, but the contribution to the Travancore Devaswom Board from the Consolidated Fund of that State should, in view of the transfer of territory from Travancore-Cochin to Madras, be reduced from Rs. 51 lakhs to Rs. 46.5 lakhs.

*Clause 19.*—In this clause it is proposed to revise and amplify the scope of article 298, mainly to make it clear that the Union Government, as well as the State Governments, are competent to carry on any commercial or industrial undertaking, whether or not it is related to a matter within the legislative competence of the Union, or, as the case may be, of the State. Similarly, the holding, acquisition and disposal of property and the making of contracts by the Union or a State could be for any purpose without constitutional impropriety. At the same time, the revised article provides that this extended executive power of the Union and of the States will be subject, in the former case, to legislation by the State, and in the latter case, to legislation by Parliament.

*Clause 20.*—The new article 350A proposed in this clause is designed to implement one of the States Reorganisation Commission's important recommendations regarding safeguards for linguistic minorities in the States after reorganisation.

*Clause 21.*—It is proposed to replace article 371 by another article making a special provision with respect to the States of Andhra and Punjab. This article will enable the President to constitute regional committees of the State Legislative Assembly and secure their proper functioning by directing suitable modifications to be made in the rules of business of Government and in the rules of procedure of the Assembly.

*Clause 22.*—The High Court of Travancore-Cochin will, as from the appointed day, become the High Court for the new State of Kerala and the High Courts of Mysore and Rajasthan will continue, respectively, as the High Courts for the enlarged "new" States with the same names. Taking into account the level of income at the bar and salaries payable to the judicial services in these States, it is considered that there is no need to increase the salaries payable to the Judges of these High Courts to the level of the other High Courts. It is proposed to amend sub-paragraph (1) of paragraph 10 of the Second Schedule to the Constitution providing for a salary of Rs. 3,000 to the Chief Justices, and Rs. 2,500 to the other Judges, of these three High Courts.

Sometimes it becomes necessary to appoint a retired district judge as a judge of a High Court. In the absence of a legal provision for withholding the pension due to such a judge, it has been the practice to obtain from him an undertaking that he would not claim the pension for the period for which he serves as a High Court judge. Since this is obviously unsatisfactory, it is proposed to add a proviso to paragraph 10(1) of the Second Schedule on the same lines as the proviso to paragraph 9(1) thereof regulating the salary of a judge of the Supreme Court in similar circumstances.

Sub-paragraphs (3) and (4) of paragraph 10 are no longer required, since appropriate provision has been made in the High Court Judges (Conditions of Service) Act, 1954.

*Clause 23.*—The existence of three entries in the legislative lists (33 of List I, 36 of List II and 42 of List III) relating to the essentially single subject of acquisition and requisitioning of property by the Government gives rise to unnecessary technical difficulties in legislation. In order to avoid these difficulties and simplify the constitutional position, it is proposed to omit the entries in the Union and State List and replace the entry in the Concurrent List by a comprehensive entry covering the whole subject.

*Clause 24.*—Entry 67 of the Union List refers to “ancient and historical monuments and records, and archæological sites and remains, declared by Parliament by law to be of national importance”. A large number of ancient monuments, archæological sites, etc., have been declared to be of national importance by an Act of Parliament. It requires another Act of Parliament to make the slightest alteration in, or addition to, the lists in that Act, which seems to be an unduly cumbrous procedure. It is, therefore, proposed to amend the entry substituting for the words “declared by Parliament by law”, the words “declared by or under law made by Parliament”. The same amendment is also proposed to be made in the connected provisions, entry 12 of the State List, entry 40 of the Concurrent List and article 49.

*Clause 25.*—Although the Union List has two entries 7 and 52, relating to industries, the latter alone is referred to in entry 24 of List II. The omission of entry 7 of List I appears to be due to an oversight and is sought to be rectified in this clause.

*Clause 26 and the Schedule.*—These contain the consequential and minor amendments and repeals proposed to be made in the Constitution and in the Constitution (Removal of Difficulties) Order No. VIII pertaining to the Assam tribal areas.

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NEW DELHI;  
The 14th April, 1956.