THE AMENDING PROCESS AND CONSTITUTIONAL AMENDMENTS IN THE INDIAN CONSTITUTION

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In memory of
Late Shri Nath Pai
&
Late Shri P. Govinda Menon
Minister of Law, Govt. of India

PREFACE

Scores of books have been written on the Indian Constitution in general or on its particular aspects. But no attempt has been made to study the origins or the significance of various provisions. Besides, their primary source of information is essentially from the Constituent Assembly debates. The many unpublished documents relating to the making of the Constitution have, presumably, not been seen or at least studied by other authors. The articles were framed and given their shape in the different committees of the Constituent Assembly, the minutes or proceedings of which have not been printed till date. Such unpublished material on the Constitution is enormous and at no particular place a complete collection is available for writing a comprehensive history of the evolution of different articles in the Indian Constitution. However, an attempt is being made by Shri Shiva Rau and his associates and also by the Bharatiya Vidya Bhavan to bring together as complete a collection of such documents as possible and it is hoped that very soon they are available to scholars interested in India's constitution-making process.

The Author has had access to the unpublished documents on the Constitution, which were lying scattered with the late Sh. Rajendra Prasad, late Shri K.M. Munshi, Shri P.N. Krishna Mani and with the Law Ministry, as early as 1960 and since then his understanding as well as the interest in the Indian Constitution has increased a great deal. It was felt that with that understanding an attempt could be made to remove some of the misconceptions with regard to at least certain vital aspects of the Constitution. A beginning was, therefore, made first with the part relating to the Directive Principles of State Policy since that happened to be the least appreciated and commentaries on it have been inadequate and even that far from satisfactory. The choice for such a study now, the second in the series, has fallen on the Amending Process and Constitutional Amendments in India. This is so because an amending clause constitues, so to say, the most vital part of a

constitutional document. A written Constitution cannot survive, grow or adapt itself to changing needs of society and time without an amending clause. Besides, there is a growing feeling, at least in the Indian context that the amending clause in the Indian Constitution is put to the use of amending the Constitution frequently and to partisan ends. More recently, this feeling has culminated in the highest court of the land imposing limitations on the amending power. The Supreme Court which on two previous occasions had given a particular interpretation of the amending clause has now given a different interpretation. It has, therefore, become imperative, while proposals are afoot to conform the amending clause to an interpretation it had earlier in the eyes of the judiciary, to make a thorough and searching study of the Amending Clause in the light of constitutional amendments actually made.

Twenty-seventh amendments have been effected to the Indian Constitution till date. Besides, a large number of Private Members' Constitution Amendment Bills have been discussed in the two Houses of Parliament. Further, the Supreme Court has declared that the amendment of fundamental rights guaranteed under the Constitution, if it sought to abridge or take them away was beyond the purview of the amending clause. And then, an appreciation of the amending clause in the Indian Constitution and a just appraisal cannot be made until and unless an analysis of amending clauses in other written constitutions are made. All these although have increased the bulk of the treatise are very necessary to enable a fuller and better appreciation of the amending clause and questions connected therewith.

One is likely to find useful information in the Appendices. As a matter of fact some of them could have gone into the main body of the book. For ready reference as well as to facilitate those who cannot find time to go through the details of the various amendments discussed, both official and private, synoptical details are given in the Appendices. The inclusion of texts of Constitution Amendment Bills in the Appendices is to enable proper appreciation of amendments carried out or sought to be made in the constitutional document.

The Author would like to express his debt of gratitude to all those who had directly or indirectly, helped him in accomplishing the various tasks connected with the preparation of this work. He is particularly, grateful to Shri P.N. Krishna Mani and to Shri M.R. Bhattacharya of the Rajya Sabha Secretariat for placing at his disposal a number of useful documents. He is also obliged to the librarians and staff of the Parliament Library, the Library of the I.C W.A., New Delhi, the Punjab Vidhan Sabha and the Punjab University Law College for their courteous disposition and for affording necessary facilities in their respective libraries. Particular mention should be made to the help rendered by Shri Balakrishna Sharma, while he was the Librarian of the Punjab Vidhan Sabha and by Shri Narasimha Iyengar, associated with Shri Shiva Rao's project on the Indian Constitution. Last, but not least, are his bountiful thanks to Shri Manocha of the Lok Sabha Sales Section, to his dear friend Sh. S.C. Jain for the typing assistance and gathering material and to his wife for her devotion.

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INTRODUCTION

There has been much less study of the Amending Clause of the Indian Constitution than any other of its important provisions. Barring a brief study on the process of amendment and the amendments carried out in the Constitution of India, in a general way, brought out by the Lok Sabha Secretariat, there is comparatively little material of an official sort relating to the subject. Besides, most treatises on constitutional law dispose of article 368, the amending clause, in a summary fashion. No comprehensive study on article 368 has, therefore, been undertaken prior to the present endeavour. If a charitable view is to be taken for the lack of adequate study on this otherwise the most vital part of the written Constitution, it could be said that it has been deliberate. Deliberate because it was being felt that a fruitful study of the amending process and the amendments effected could only be made after the Constitution has worked over a period of years and enough material have gathered for the purpose. In this connection it would be worthy to note that the first monograph on Article V of the Constitution of the U.S.A. relating to the amending process was brought out by L.B. Orfield only as late as 1942. A further difficulty experienced by writers on this subject seems to have been the lack of precise knowledge on the extent of source material on the subject—and even if they did—the inaccessibility to such sources and documents. The Constituent Assembly debates and the Reports of various committees of the Constituent Assembly as also other printed documents thereof contain practically nothing to make possible a searching study into the various aspects of the amending clause provided for in the Constitution. Most of the discussions relating to the origin of the amending clause, its processing at the various stages of constitution making and the way in which it was provided for ultimately in the constitutional document, unfortunately, have not been published till now. The author, however, has been lucky enough to get access to almost all such documents, facilitat-

ing thereby his attempt at a critical study of the amending provision in the body of the Indian Constitution as also the various amendments carried out in the constitutional document.

The provision of an amending clause, more particularly in a written Constitution, is absolutely essential and its importance within the body of a constitutional document is, as much, for a variety of reasons, as the need for the document itself. Primarily, the drafting of a constitution is an onerous and difficult job and its construction in a form acceptable to the people is a task that frequently approaches the impossible. Further, constitutions contain, inter alia, certain ideals and aspirations of the people for the fulfilment of which the government of the day is pledged. Provisions that have a bearing on the establishment of social and economic democracy in constitutions are illustrative of such pledges. There may be impediments in the realisation of such objectives, either by inadequate appreciation of those ideals and aspirations or grasp of the spirit in which they are conceived of or still further the susceptibility of the phraseology or the construction of the article of the Constitution to interpretations other than what was meant to be. It is, therefore, necessary for such a purpose to provide for an amending clause in the framework of a constitutional document. A more fundamental need for an amending clause is for federal constitutions wherein there is distribution of powers between the centre and the constituent units or certain safeguards exist for certain classes of people and as such require constant adjustments to be made.

The study of the amending clause of the various constitutions of the world is fascinating inasmuch as the variety that they offer. Further the application or the use to which such a clause is put to i.e. educative in so far as it is indicative of the lines of advancement of a nation as also the amount of reverence shown by the party in power to the sanctity that is attached to the Constitution. Oftentimes it is alleged that the party in power tinkers with the constitution and resorts to amendments frequently to write into the document its own ideology or for its own perpetuation. In that context, it is held that great sanctity should be attached to the constitutional documents and as such the tendency

to amend the constitution should be discouraged as far as possible and resorted to only as the last resort. In other words, the frequency of constitutional amendments is a question that needs examination. In this connection, it is worthy to note that a piecemeal amendment approach to constitutional changes should be preferred to full-scale constitutional revision, even if that becomes absolutely necessary, for the legal, political, social and economic difficulties involved as also the tremendous effort needed for the purpose. Combination of forces that might unite, temporarily, to defeat complete revision, might be splintered by the use of the amendment-by-amendment, divide and conquer, approach. If it were possible for such a long-term effort to be properly co-ordinated and citizens' interest in it sustained, the arguments in its favour might be overwhelming. Certainly, a specific, single amendment is to be preferred when there is a special problem demanding immediate attention for the amendment-by-amendment approach shows tangible results much more quickly.

A further question that requires consideration, particularly in the Indian context, is the justification of or the extent to which constitutional amendments could abridge fundamental rights of citizens. It is contended that the chapter on Fundamental Rights in the Indian Constitution is sacrosanct and as such it is beyond the pale of amending power. Then there is also another aspect to be seen, namely, the easy facility afforded or the difficulty involved in the matter of the constitutional process itself in the various constitutions. This is, however, apart from the basic issue as to how far the process envisaged in the constitution fits into the scheme of the constitution itself. In other words, whether the process actually satisfies the requirement of the objectives of its incorporation in the constitution or it is merely a transplantation of the provision from some constitution or the other. Finally, there is the question of proposals or attempts at the amendment of the amending process itself consequent on its application in actual practice.

The study of the amending process and the amendments to the Indian Constitution is the second of a series of studies, the first one being the Directive Principles in the Indian Constitution,

on the various aspects of the Indian Constitution contemplated by the author. The pattern of study in this case is different from the one adopted for the 'Directives'. The subject divides itself into two Parts : Part One deals with the Amending Process ; and Part Two with the Assessment of the Process itself consequent on its application in actual practice. As the concept of constitutional amendment, the place of amending procedure in a constitutional document and an analysis of the amending process in various constitutions of the world require consideration prior to the understanding of the amending process in the Indian Constitution, Chapters One and Two are devoted to their exposition. The Third and Fourth Chapters are devoted to the Evolution of the Amending Process in the Indian Constitution and a critical analysis of the evolution. Chapter Five analyses the phraseology and the implications of Article 368, the amending Clause in the Indian Constitution. Part Two critically examines first, the amendments carried out from various angles and then an assessment of the process itself. Suggestions for the alteration in the process is also examined in this analysis. Finally, the prospects of amendments to the Constitution in the changed complexion of representation in the Parliament and in a number of State Legislatures are examined in the concluding Chapter.

PART ONE

THE AMENDING PROCESS

I

The Amending Clause in Written Constitutions : Its Origin, Significance and Importance

There has never been an ideal Constitution, and no Constitution could possibly be ideal for all States. A Constitutional document which is suitable for the needs of an Oriental, theocratic or a traditional type of State might not be appropriate for a modern, secular or a welfare State. Further, every Constitution is constantly undergoing changes of various kinds through the import of new needs upon it. Besides, every viable Constitution must necessarily reflect the aspirations and the power structure of the particular society it is designed to serve ; it cannot and will not function in a vacuum. Also in the dynamic society in which we are living, no good Constitution can possibly retain its quality for very long unless it can be changed to adapt with the changing times. James Wilford Garner aptly remarks in this connection :

> 'It is undeniably true that no existing Constitution has reached its final form and become, as it were, a dead or fixed thing incapable of further development.'
>
> 'Human societies grow and develop with the lapse of time, and unless provision is made for such constitutional readjustments as their internal development requires, they must stagnate or retrogress.'[1]

To a similar effect was the observation of Lord Brougham when he observed :

> 'Constitutions must grow, if they are of any value ; they have roots, they ripen, they endure. Those that are fashioned

[1] *Political Science and Government*-pp. 536-37.

> resemble painted sticks, planted in the ground, as I have seen in other countries what are called the trees of liberty. They strike no root, bear no fruit, swiftly decay and ere long perish.'[1]

President Wilson also remarked that a Constitution must of necessity be 'a vehicle of life' that its sustenance is the thought and habit of the nation 'and as such it must grow and develop as the life of the nation changes.' He added :

> 'Living political Constitutions must be Darwinian in structure and practice.'[2]

Way back, John Stuart Mill observed that no Constitution can expect to be permanent unless it guarantees progress as well as order.[3] Then again, no amount of drafting skill could be expected to eliminate the necessity of revision and development to adapt the Constitution to the unforeseen and the unforeseenable.

Two important attributes of good constitutional documents of modern States are stability and flexibility. They must supply the stability which orderly government requires and at the same time they would fail in their purposes if the doors are closed too tightly against change and adaptation. Indeed, in many ways, the central problem before the framers of a Constitution is to find a proper balance between stability and change ; a reconciliation of the idea of a stable judicial order, affording no scope for hasty, sudden or revolutionary changes, with the idea of growth and development. In this connection it would be appropriate to quote the observations of John Dickinson who stated :

> 'The largest number of controversies and causes of dissatisfaction that arise under a written Constitution are connected with the question of progress.... The function of a written Constitution is to provide such a principle and framework of order within which change can proceed without endangering stability.' It is the function of a Constitution to provide resistance to change merely as such. If that were so, a Constitution would be an incitement to revolutions rather

[1] *The British Constitution*, '*Works*' Vol. XI, p. xxi.

[2] *Constitutional Government in the United States* (1921) pp. 22 & 57.

[3] *Representative Government*, p. 8.

> than a means of avoiding them. On the other hand, a Constitution which left the door open to any and every kind of change could not perform its function, since the function of a Constitution is to ensure a stable progress, and certain types of change are incompatible with stability."[1]

It is therefore, a mistake to over-emphasise either flexibility or stability. What is necessary is a judicious blending of the two elements. In other words a certain measure of flexibility is essential to the successful working of a Constitution.

The above observation leads us to the discussion as to what should be the broad contents of Constitutions. Sir Ivor Jennings contends that the 'golden rule' for constitution-makers is never to put in anything which could safely be left out. "The fact that a provision is thought to be desirable does not imply that it should be in the constitution," he adds However, even a cursory glance at most of the written Constitutions would forthwith disprove the above contention. The tendency in recent times has been to extend the number and variety of matters which are deemed sufficiently important to warrant provisions which shall be rendered more or less immutable by inclusion in the Constitution. Thus for instance the Italian Constitution of 1848 contained 84 articles only, but the present Constitution has nearly double that number. Similarly, there are as many as 254 articles in the Constitution of Brazil of 1946, whereas the Constitution of 1891, as amended in 1925 and 1926, contained 90 articles only. A still more remarkable case in point is furnished by the constitutional history of France. The basic organisation of the Third Republic was entirely covered by 26 articles of the Law of 1875, but the Constitution of the Fifth Republic has as many as 106 articles. These examples clearly show that there is no such thing as the 'golden rule'. Nor do the recent constitutional developments in Europe, America and Asia lend any support to the argument that if a Constitution is to be amended easily, it should be as short and simple as possible. Hence it cannot be questioned that the mere fact that a Constitution has long and detailed provisions

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[1] The Constitution and Progress-181 *The Annals of the Ameriean Academy* p. 12, September, 1935.

does not necessarily mean that it is a rigid Constitution. On the contrary, detailed provision render it unnecessary to introduce any constitutional amendment. Further it could be said that it saves a great deal of litigation.

An adequate provision for amendment is, therefore, implicit in the very nature of a Constitution and practically every Constitution has some formal method of constitutional amendment. As to how important an amending provision in a constitutional document is and what would be the consequence in the absence of such a provision is aptly stated by John W. Burgess in the following words :[1]

> "A complete constitution may be said to consist of three fundamental parts. The first is the organisation of the state for the accomplishment of future changes in the constitution. This is usually called the amending clause, and the power which it describes and regulates is called the amending power This is the most important of a constitution. Upon its existence and truthfulness, (i.e.), its correspondence with real and natural conditions, depends the question as to whether the state shall develop with peaceful continuity or shall suffer alterations of stagnation, retrogression and revolution. A constitution, which may be imperfect and erroneous in its other parts, can be easily supplemented and corrected, if only the state truthfully organised in the Constitution, but if this be not accomplished, error will accumulate until nothing short of revolution can save the life of a state."

In a similar strain J. W. Garner in 'Political Science and Government' observed at pp. 528 and 536 :

> A typical written Constitution contains three sets of provisions; first, a series of prescriptions setting forth the fundamental civil and political rights of the citizens, and imposing certain limitations on the power of the Government, as a means of securing the enjoyment of those rights ; second, a series of provisions outlining the organisation of the government, enumerating its powers, laying down certain rules relating to

[1] *Political Science and Constitutional Law* (1891) p. 137,

its administration, and defining the electorate; and third, a provision or provisions pointing out the mode of procedure in accordance with which formal changes in the Constitution may be brought about'

He further went on to say :

'No written Constitution is complete without such a provision. .....In some respects the amending provision is the most important part of the Constitution, because as it has been said, upon the correspondence of the written Constitution with real and natural conditions of the State depends the question whether it shall develop with peaceable continuity or shall suffer alterations of stagnation, retrogression and revolution.'

W. Brooke Graves also draws attention to the great importance that is to be attached to a suitable amending provision in written Constitutions. His observation, more in connection with American State Constitutions, was as follows :[1]

'The fourth essential of a State Constitution is a workable method of piecemeal amendment. This idea is, in fact so important that a separate section of this Chapter is devoted to its consideration. The amending processes of many State constitutions furnish striking and indisputable evidence of the fact that unworkable amending provisions constitute a barrier to the progress of the state. Government is a changing, growing, developing, dynamic institution, in need of continuous adaptation to changed social and economic conditions. A constitution whose amending provisions make it impossible to make necessary modifications in governmental institutions comes to be a sort of constitutional strait jacket. We cannot prevent governmental changes by failing to make adequate constitutional provision for them. The alternative method is likely to be a revolutionary upheaval caused by the accumulation of grievances and social and economic maladjustments

More simply put, the life of a nation is dynamic and with it, its political, social and economic conditions change almost

[1] American State Constitutions (1946) p. 62.

continuously. Consequently, either new prolems are created or the complexion of the old ones are altered. It is, therefore, quite often that a Constitution drafted in one era and in a particular context is found inadequate in another era and context. The basic ideas upon which a Constitution is based in one generation may be found outworn in the next. It thus becomes necessary to have some machinery, some process, by which the Constitution may be adapted from time to time in accordance with national needs. As Harvey Walker puts it :

> 'Constitutions must be developed out of the life and aspirations of the people, not borrowed from others. Their fundamental concepts, to be useful and lasting, must be in tune with the particular culture and times. This requires continuous adaptation.' (Myth and Reality, Chapter I p. 10)

Thomas M. Cooley, writing about the 'Comparative Merits of Written and Perspective Constitutions', in the 'Harward Law Review' on March 15, 1889, at pages 351-52 (1888 89 - Vol 2) brings home the importance and superiority of the amending clause in a written Constitution as against the unwritten ones, particularly in the matter of growth and expansion in the following words :

> 'As change in government is according to the order of nature, a good Constitution should provide for safe growth and expansion. Here, again, it may be easily concluded the unwritten has advantages. What growth can be better, it may be asked, than that which is going on from day to day, imperceptibly, and is finally officially and formally recognised when it is complete ? But on the other hand, this method of change is accompanied by dangers that may threaten the very existence of government.....We have found the better way when we have agreed upon a method, whereby the peaceful ballot may determine whether the time is ripe for change, and, if so, what the change shall be, instead of leaving the question of change to the arbitrament of force The choice of methods is thus between ballot and battle, with a reasonable certainty that the one, while it is peaceful, will truly express the actual public judgment, while the other, besides being destructive, may prove nothing beyond the fact that the fortune of war

for the time being inclines to a particular party. The written Constitution thus prepares the way for growth and expansion by steps which give security against public disorder and violence ; its provisions may be moulded to new thoughts, new aspirations, and new needs, as peaceful as the simplest law on the statute book may be modified; perhaps with as little discussion.'

In a different way Benjamin Fletcher Wright in his introduction to the 'Federalist' drives home the acceptance of a legal method of amendment in a written Constitution. He observes at page 69 :

'To this day there are peoples to whom a written Constitution, like a physical law or nature, or a fundamental religious doctrine, cannot be changed. The acceptance of the theory and practice of lawful amendment is one of the truly remarkable achievements in the history of political theory and institutional development.'

Leo Kohn pointed out that in a written Constitution the provisions governing its amendment constitute[1] 'the acid test of its legal status' and that the inevitability of constitutional amendment has become recognised. Quick and Garren, in their 'Annotated Constitution of the Australian Commonwealth' after pointing out that a Constitution was a charter of government, a deed of rust containing covenants between the sovereign community and its individual units and as such should not be lightly or inconsiderately altered drew attention to the dire need for a amending provision in the constitutional document, in the following words[2]:

'At the same time a Constitution which did not contain provision for its amendment with the development, growth and expansion of the community which it is intended to govern, would be a most inadequate and imperfect deed of partnership. It would be doomed to collapse ignominously, and without hope of reconstruction. It is bound to break beneath the pressure of national forces which it could not control or resist. A Constitution may be compared to a living organism. It is not

[1] *The Constitution of the Irish Free State.*

[2] pp. 989—990.

> in the nature of a living organism to remain monotonously the same from year to year and from age to age. As with individual units, so with nations, change is one of the laws of life. The Constitution of a nation is the outward and visible manifestation of its national life, to the pulsations of which it necessarily responses. The energy within any healthy organic structure must find vent in change. Change assumes various external forms. The power in a progressive community is never quiescent or stationery.'

Under the caption 'A Curious Chapter in Constitution—Changing' Victor Rosewater drives home the importance of the amending clause in the context of American Federal and State Constitutions in the following manner :[1]

> 'It is for the purpose of assuring this orderly evolution, this gradual yet certain adaptation of the mechanism of government to constantly changing conditions, that in our Constitutions, and especially in our written federal and state Constitutions, provision has been made to render amendment and revision possible without uprooting the foundations upon which they were laid. The extent to which these amending clauses were workable, the measure in which they meet the real needs of the people and prove capable of withstanding the shocks of spasmodic agitation or of passing popular frenzy, must be the test of their sufficiency and usefulness. If unworkableness produces stagnation, it is sure to cause steadily deepening discontent and to invite recourse to extra-constitutional or semi-constitutional devices which border revolution.'

The amending provision in a Constitution, is, hence, of great importance for it may enable the country to develop peacefully, the alternative to which may be stagnation and revolution. C J. Fredrich aptly observed that 'a wise Constitution will provide for its own amendment in such a way as to forestall as far as is humanly possible, revolutionary upheavals.' Ermein points out that every rigid and written Constitution, 'unless it be profoundly illogical and supremely impudent' must establish a pro-

[1] (1921) 36 *Political Science Quarterly*, 409.

cedure according to which it may be revised and modified. The importance of this historical truth was not, however, apparent to the framers of the earliest written Constitutions who were inspired by the desire to establish a permanent legal order. For example, the French Constitution of 1814 expressly stated that 'the concession and the grant are made for us as well as for our successors and for ever ' Similarly, the several Cromwellian Constitutions failed to contain any adequate provisions for their own amendment Such Constitutions were made unalterable because the framers believed that they were perfect and, hence immutable Commenting on such Constitutions which were made unalterable by their framers, Jafferson, one of the architects of the American Federal Constitution observed :

> 'Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human and suppose what they did to be beyond amendment. I know that age well. I belonged to it and laboured with it. It deserved well of its country. It was very like the present but without the experience of the present ...I am certainly not an advocate of frequent and untried changes in laws and Constitutions ..But I know also that laws and institutions must go hand in hand with the progress of the human mind.' (Quoted in the Journal of the American Judicature Society, August, 1936, p. 62 vide American State Constitutions by W.B. Graves, p. 79).

Writing in connection with some of the American State Constitutions (eight of them all together and all belonging to the eighteenth century) which did not contain any provision for amendment, J.W Garner observed :[1]

> 'Whether this omission was due to oversight or failure to appreciate the obvious advantages of expressly pointing out in the Constitution itself the mode of procedure be observed in altering its provisions; or whether it was due to the prevailing opinions, repeatedly asserted in the bills of rights, that the people have an inalienable right at all times to amend

[1] *Political Science and Government*—p. 536.

their constitutions and hence a belief that no necessity existed for limiting their right by self-imposed restrictions—there is a difference of opinion.'

While John Mary Mathews in 'The American Constitutional System' held that such an absence was probably due to two reasons or influences. They were, to put in his own words: [1]

'The first was the idea which was held in France shortly after the revolution of 1789 that it was possible to draw up a constitution which would be so perfect that it would never need amendment. More important, however was the idea that since the people are the ultimate source of all political authority, must be assumed to have the right to change their instrument of Government, it was unnecessary expressly to provide for this right in the Constitution.'

The fallibility of the above argument, however, soon became evident and various procedures began to be adopted for amending the Constitution, care being taken at the same time to protect against hasty and ill-considered changes. So much so, it has come to be that nowadays a Constitution without an amending clause is a novelty. It has become so imperative a necessity as to prompt Munro to observe in his book 'The Government of the United States.' [2] 'It is impossible to conceive of an unamendable Constitution as anything but a contradiction in terms. For a Constitution is a manifestation of popular sovereignty ; and one generation of the people can hardly impose, for all time, a limitation upon the sovereignty of future generations. That would constitute government by the graveyards,' and for Herman Finer in 'the Theory and Practice of Modern Government' to define a Constitution as 'its process of amendment' since according to him to amend was 'to deconstitute and reconstitute.' Of course, Herman Finer when he equated the process of amendment with the Constitution itself, he had before him the British Constitution which broadly speaking could be altered by the Parliament of England even to the extent of abolition. In this connection it should be pointed out that constitutional pundits are critical of

p. 31.

[2] *Ibid*, p. 77.

Constitutions that have undertaken to prohibit absolutely their own amendment in respect of certain provisions. Referring to the provisions in the Constitution of the United States, that no amendment could be made prior to the year 1808 affecting in any manner the first or fourth clauses of Section 9 of Article 1 (relating to the prohibition of the importation of slaves) and that no State without its consent shall be deprived of its equal suffrage in the Senate as examples of an attempt to limit the sovereign power of the people to change the Constitution under which they live. Garner observed :

> 'Such provisions are highly objectionable on the grounds of public policy and are of doubtful validity. They rest on the assumption that their authors are infallible and that they have a right to bind future generations to accept as final what they have decreed.'[1]

Writing in 'The Nation' Mulford more effectively states as follows :

> An unamendable constitution is the worst tyranny of time: or rather the very tyranny of time. It makes an earthly providence of a convention which has adjourned without day. It places the sceptre over a free people in the hands of dead men, and the only office left to the people is to build thrones out of the stones their sepulchres.'

He further added :[2]

> 'To make amendment difficult or well nigh impossible and then to assume that it shall be exclusively and exhaustively definitive of the action of the people in all events, involves the denial of the organic and moral being of the people...It is directly immoral since in its necessary inference the people no longer exists as a power in the moral order which is the life of the history.'[3]

W. W Willoughby's observation in this regard was[4] :

1 *Ibid.*, p. 127.
2 *Political Science and Government*—p. 537.
3 *Ibid* p. 155.
4 *U.S. Constitutional Law*, p. 600.

> 'The fundamental error of all those who have sought to place inherent limitation upon the amending power as provided for in the Federal Constitution is that they necessarily start with the assumption that the Constitution is in the nature of an agreement or compact between the States or that it implies an understanding between them, or between them and the National Government that the allocation or powers as provided for in the original instrument shall not be changed in any or its more important or essential features."

To a similar effect was the observation of Jefferson[1] when he said that each generation had a right to determine the law under which it lived since 'the earth belongs in usufruct to the living; the dead have neither powers nor rights over it' Addressing the Bar Association of Kansas, Henry M. Bates,[2] after pointing out that a Constitution was not an end in itself, but rather a means, or an instrument adopted for the specific purpose of regulating the pubilc affairs and preserving the individual rights of the nation, observed :

> 'But it would be asking the impossible to expect one generation to plan a Government that would endure through all times and through revolutionary changes in every aspect of life.'

Thus to enable the Constitution to serve as a means to an end, the end being the regulation of the public affairs and preservation of the individual rights of the nation, an amending process in a Constitution is absolutely essential. Writing about Article V of the Constitution of the U.S.A., Mc Govney[3] stated :

> 'They knew that it was beyond the wisdom of any one generation to hit upon a permanent workable balance between the powers necessary to government for the collective welfare and the freedom or immunity that might be conceded to the individual, and consequently made provision for amendments whereby readjustments could be made in one direction, or the other.'

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[1] Quoted by Merriam in *American Political Theories*, p. 151.

[2] "How Shall We Preserve the Constitution", *Proceedings of the Bar Association of Kansas*, 128, 143 (1926).

[3] Article in the *Columbia Law Review*, Vol. 20, p. 502 (1920)

In a similar strain Irredell declared before the North Carolina ratifying Convention.[1] He observed :

> 'The Constitution of any government which cannot be regularly amended when its defects are experienced, reduces the people to this dilemma—they must either submit to its oppression, or bring about amendments more or less, by a civil war. Happy this, the country we live in ; the Constitution before us, if it be adopted can be altered with as much regularity, and as little confusion, as any act of Assembly, not indeed, quite so easily, which would be extremely impolitic; but it is a most happy circumstance, that there is a remedy in the system itself for its own fallibility, so that alterations can without difficulty be, made, aggreable to the general sense of the people.'
>
> 'Mr. Chairman, this is a very important clause.....The misfortune attending most Constitutions which have been deliberately formed, has been that those who formed them thought their wisdom equal to all possible contingencies and that there could be no error in what they did. The gentlemen who framed this Constitution thought with much more diffidence of their capacities, and undoubtedly without a provision for amendment it would have been more justly liable to objection, and the characters of its framers would have appeared much less meritorious. This indeed is one of the greatest beauties of the system, and should strongly recommend it to every candid mind '

Story, commenting on the Constitution of the U.S.A. more effectively brings out the purpose of the amending clause, although the reference is to the amending clause in the Constitution of U.S.A. He stated :[2]

> 'In regard to the Constitution of the U.S. it is confessedly a new experiment in the history of the nations. Its framers were not bold enough to believe, or to pronounce it perfect. They believed that the power of amendment was, if one may so say, the safety valve to let off all temporary effervescences

[1] *Elliots Debates*, (1836 ed), pp. 176--177 and 182.

[2] *Commentaries on the Constitution*, Sec, 1827.

> and excitements; and the real effective instrument to control and adjust the movements of the machinery, when out of order, or in danger of self-destruction.'

Thus therefore, if the Constitution is found inconvenient in practice in this or any other particular, it is well that a regular mode is pointed out for amendment.[1] Mason, one of those associated with the making of the U.S. Constitution observed at the Convention on the adoption of the U.S. Constitution :[2]

> 'The plans now to be formed will certainly be defective, as the Confederation has been found on trial to be. Amendments therefore will be necessary and it will be better to provide for them in an easy, regular and constitutional way than to trust to chance and violence.'

The idea of providing a procedure for alteration of the organic instrument of a State seems to have originated from the United States of America since written Constitutions were developed at a late stage of Western civilisation when the United States took the lead The first American Charter to make provision for its future amendment was the Frame of Government of Pennsylvania of 1682 granted by William Penn. It provided that no act, law, or ordinance which would alter or change the Charter in any part should thereafter be enacted without the consent of the Governor and 'six parts of seven of the said freemen in provincial Council and General Assembly.' Similar provisions were made in the Frame of Government of 1683 and of 1696 and in the Charter of Delaware, 1701 as granted also by Penn. Of the thirteen U.S State Constitutions first framed, six contained provision for their future revision, namely, Delaware (1776), Pennsylvania (1776), Maryland (1776), Georgia (1777), Vermont (1777) and Massachusetts (1780). By 1787, when the Federal Convention met, the revised Constitution of South Carolina and of New Hampshire brought the number of State Constitutions that had provided for revision of their constitutional document to eight. The failure of the other State Constitutions, namely of

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[1] Cf. Judge Cushing in Chishom V. Georgia. 2 Dallas 419, 467 (1793)

[2] 5. Elliots Debates, 182

[3] Cf. *'The Federal and State Constitutions'* Poore, 2nd Edition, 1878.

Connecticut, New Jersey, New York, North Carolina, Virginia and initially of New Hampshire and South Carolina to include amending clauses in their first Constitutions was explained by Jameson in his 'A Treatise on Constitutional Conventions' [4th Edition (1887)] as 'many of them were framed in extreme haste, for temporary purposes, when little was thought or known of the best modes of constructing or amending such instruments. In several instances the State Governments were intended to be mere provisional organisations, to be laid aside, not when new and better ones should be provided, but upon the expected contingency, of peace with England, following as a consequence of a redress of grievances.' Thus between the declaration of American Independence and the meeting of the Constitutional Convention of 1787, eight of the American State Constitutions incorporated amending clauses in their Constitutions. The use of the amending process was reserved to the General Assemblies in the Constitutions of Delaware, Maryland and South Carolina. In Pennsylvania, Vermont, Georgia, Massachusetts and New Hampshire revision was to be made by conventions of the people. Even more important, Orefield observes that the Articles of Confederation defective as they were, made provisions for their alteration. Article XIII of 'Articles of Confederation, 1781-1788' provided as follows :

> 'Every State shall abide by the determinations of the United States, the Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual ; nor shall any alteration at any time hereafter be made in any of them unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.'

Now let us see as to what exactly is meant by the terms 'amendment' and 'Constitutional amendment'. According to the Shorter Oxford Dictionary, the word 'amendment' is derived from the Latin word 'emendare', and in the context means 'removal of

The Amending of the Federal Constitution, Ann Abor, Michigan, 1942.

faults or errors, reformation or the alteration of a Bill before Parliament'. The Century Dictionary notes that the word 'amendment' comes from the French word 'amender' meaning literally 'to make better'. It is defined therein as 'an alteration of a legislative or deliberative act, or in a Constitution, a change made in a law either by way of correction or addition'. In the United States it was held by certain writers that the term 'amendment' had a very restricted meaning namely, that an amendment must be germane to something in the original instrument and that it must not be destructive of the very character of the original instrument or of the instrument itself. Such writers derived their support from a judgment of the Californian Court, Livermore V. Waite (1894) 102 Cal. 113, wherein it was held that the term amendment implied "such an addition or change within the lines of the original instrument as would effect an improvement or better carry out the purpose for which it was framed." Besides cases prescribing the very limited meaning of amendment in the law of pleadings were cited as authoritative. However it had been held by the Supreme Court in Dillon V. Gloss [262 Fed 563 (1920)] and Fiegenspan V. Bodine [264 Fed 186 (1920)] that the term 'amendment' has a wider connotation. In the former case it was observed :

> 'The Constitution is a mere grant of power to the Federal Government by the several States and any 'amendment' which adds to or in any manner changes the powers thus granted comes within the legal and even within the technical definition of that term',

and in the latter case it was observed :

> 'The definition of the word 'amendment' includes addition to as well as correction of, matters already treated ; and there is nothing in the immediate context which suggests that it was used in a restricted sense'.

By and large it has been conceded by authorities on constitutional law and writers that it is improper to accept a limited meaning to the term 'amendment' as applied to Constitutions since amendments to Constitutions have always been construed much more liberally and on altogether different principles from those applied to

amendment of pleadings. Further according to W.B. Graves, a 'constitutional amendment' is whatever language or whatever subject, formulated and submitted to the voters for their approval or rejection in accordance with some procedure authorized in the Constitution for accomplishing constitutional change'. In other words the term 'constitutional amendment' connotes a definite and formal process of constitutional change. Used in this narrow sense, it describes but one of the methods by which Constitutions are altered. The formal method is supplemented by the force of tradition and custom which may virtually alter the Constitution ; by judicial interpretation ; and by the enactment of statutes which affect the organic nature of the State, known otherwise as informal methods. In the case of informal methods as against the formal, of adapting the Constitution to new circumstances, the actual constitutional text does not change, but its interpretation undergoes a change. The words in the Constitution having one meaning in one context may be given somewhat different meaning in a different context. This is a slow process and in this process, the courts, in particular, play an important part since it is their function to interpret the Constitution. Besides being slow as it may take a long time for a view to crystallise, a characteristic feature of this method is that it is also haphazard as the courts do not take the initiative ; they interpret the Constitution only when the question is raised before them and what interpretation is going to be given depends on the nature of cases and constitutional controversies which are presented to the courts for decision. Though this process goes on in every Constitution to a greater or lesser degree, yet its utility is maximum in those countries in which the formal method of constitutional amendment are very tardy and difficult and the language used in the Constitution is general. The apt example where this process has been used effectively for adaptation of the Constitution is the United States where the Supreme Court has from time to time given a new meaning to the phrases and words in the Constitution so as to make a document of the 18th century individualistic State subserve the needs of a highly industrialised civilisation of the 20th century without many formal amendments having been effected in the text. To a limited extent in Canada and Australia

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also the judiciary has adapted the Constitution to the changing circumstances.

On the other hand, the formal method consists in changing the language of the constitutional provisions so as to adapt them to the changed context of the social needs. In some countries the process may be easier than in others and Bryce classified Constitutions as 'flexible' and 'rigid' depending on whether they can or cannot be changed by the same process by which ordinary laws are made. A flexible Constitution is one in which the amendment can be effected rather easily. However, this is not always the case. Munroe, for instance in his 'Government of Europe' contends that the frequency with which the constitutional methods and practices of a nation are changed does not depend wholly, or even largely, upon the simplicity of the amending process. He observed that in France the process of amendment was almost as easy as in Great Britain, yet France during the past twenty year has had fewer constitutional amendments than the U.S A., where the process of amending the Constitution was far more complicated. According to Munroe, the flexibility of a Constitution depended upon two things ; first, the nature of its provisions, and second, the attitude of the people towards constitutional amendments. He observed :

> 'If the provisions of a Constitution are broad enough to permit considerable changes in governmental practice without any formal amendment, then the Constitution possesses flexibility as an inherent virtue. This is true of the Constitutions of Great Britain and the U.S.A. If on the other hand, the Constitution is cluttered up with rigid details, as are the Constitutions of various American States, there is no way of adjusting the document to new governmental needs except by amending its provisions.
>
> This does not mean, however, that such Constitutions are necessarily more rigid than those of other type. Whether they are or not depends upon the attitude of those who possess the power to make the changes. On the face of things the Constitution of California is far harder to change than those of Great Britain, but it is in fact more easy to change

> and it is changed more frequently. A conservative people, with a Constitution couched in broad terms, will make relatively few changes in it over considerable periods of time. But if they form a volatile community, with a Constitution that is detailed in its provisions, there will be an annual procession of amendments no matter how hard the process of amending may be—yes, even though it necessitates bringing the whole people to the polls in order to get an amendment adopted.'
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> (pp. 23-24)

Besides, there are many degrees or flexibility and a wide variety of methods for effecting the revision or amendment of fundamental law. The British Constitution, for example, characterised rather not quite appropriately, as 'unwritten' since custom and common law enter so largely into its make-up, may be modified by Parliament by the process used in passing an ordinary law. Here no distinction is made between the legislative process and the constituent process.

An analysis or the various so-called flexible Constitutions of the world shows that there is no absolute co-relation between the ease of amending a Constitution and its flexibility. What appears in one instance to be a simple process of amendment may be used infrequently. The Constitution may be fortified by the hold of customs on the minds of men. In another place where the mechanics of amendment are intricate and seemingly unworkable, we may find the Constitution stirred up constantly. Thus the amending process in flexible constitutions has, as Robert Rienow in 'The Introduction to Government' (p. 9) put it, 'no more permanancy of form than cloud patterns in the sky.'

Then according to Bryce, a rigid Constitution is one which is difficult to amend. In this case, the Constitution is regarded as being fundamental in the sense that it lays down the basic principles considered to be of a permanent value and it is thought that the method of amendment should be such as to ensure that the basic principles are changed only after thorough consideration and deliberation and that hasty and ill-considered changes under political pressures of the day are avoided. A written Constitution, normally, is of the rigid type. A federal type of Constitution also

is normally of a rigid type inasmuch as it seeks to achieve a balance of power between the Union or the Centre and the constituent units, and this balance it is contended should not be disturbed lightly or unilaterally. Curiously enough, however, the difficulty or the process of amending a Constitution does not appear in practice to have much to do with whether amendments are actually adopted or not. Thus for instance under the Constitution of the Old German Empire an amendment required an ordinary majority of the Reichstag and a more than three-fourths vote of the Bundesrath, yet during its forty-seven years of life (1871-1918) as many as fourteen amendments were adopted. On the other hand, in France, constitutional amendments may be adopted (under the earlier Republics) by a process almost as simple as that employed for the enactment of ordinary statutes; yet since the adoption of the Constitution in 1875 only six amendments had been added, that of 1926 being the only amendment since 1884. Writing in 1928 Howard Lee McBain in 'The Living Constitution' observed that the flexibility of the one and the relative rigidity of the other Constitution derive from factors that lie largely, if not wholly, outside the letter of the amending process. 'They do, however, seem to point the danger of measuring the inflexibility of a Constitution solely by the verbal yardstick of its amending process,' he contended. He illustrated his contention by giving examples from the State Constitutions of the U.S A. The Lousiana Constitution of 1913 and the Californian Constitution of 1879 were amended over 100 times and 150 times respectively till 1927 whereas the Utah Constitution of 1895 was amended only 12 times although all the three Constitutions required a two-third majority. Further the Constitutions of New York (1894) and Iowa (1857) were amended 30 times and 20 times respectively till 1927 although it required that the amend ment proposal be passed in two successive legislatures. However, according to McBain the unadaptive quality is directly chargeable to peculiarly hard requirements in the matter of amendments. Under the Constitution of New Hampshire constitutional amendments could be effected only through a Convention ; in Montana, not more than three amendments may be submitted at one election; in New Jersy and Pennsylvania, amendments could be

submitted only once in five years while in Tennessee and Vermont amendment proposals could be submitted once in six and ten years respectively; and in Illinois amendments could be proposed to only one article at a time and to the same article not oftener than once in four years and that must be approved by a majority of all those voting at the election.

Thus from the above account it is clear that only to a limited extent can it be appreciated Lord Bryce's distinction between rigid and flexible Constitutions or Lord Birkenhead's distinction in McCawley's case—controlled and uncontrolled Constitutions—(19.0 A.C. 691) upon the presence or absence of some extraordinary procedure to be adopted for amendment of the Constitution. Besides, it should be noted that the terms rigid and flexible are somewhat relatively, the difference being one of degree and not of kind, because in the ultimate analysis, a Constitution which is incapable of adjustment and adaptation will fail to endure and even a Constitution of the flexible type cannot be lightly amended owing to the political repercussions apprehended and the social values of the people Posing the question if the process of change under the Constitution of the U.S.A. should be made easier, Bryce, writing in the year 1888, was inclined to feel that the existing rigid procedure under Article V was to be preferred. He observed :

> 'A swift and easy method would not only weaken the sense of security which the rigid Constitution now gives, but would increase the troubles of current politics, by stimulating a majority in Congress to frequently submit amendments to the States. The habit of mending would turn into the habit of tinkering. There would be too little distinction between changes in the ordinary statute law, which require the agreement of majorities in the two Houses and the President and changes in the more solemnly enacted fundamental law. And the rights of the States, upon which congressional legislation cannot now directly encroach, would be endangered. The French scheme, under which an absolute majority of the two chambers, sitting together,

[1] *The American Commonwealth*—Vol I—pp. 490-491.

> can amend the Constitution; or even the Swiss scheme, under which a bare majority of the voting citizens, coupled with the majority of the cantons, can ratify constitutional changes drafted by the chambers, in pursuance of previous popular vote for the revision of the Constitution, is considered by the Americans as dangerously lax. The idea reigns that solidity and security are the most vital attributes of a fundamental law.'

However, one is inclined to agree with the views of J.W. Garner that 'the provision for amendment should be neither so rigid as to make needed changes practically impossible nor so flexible as to encourage frequent and unnecessary change and thereby lower the authority of the Constitution', and of Judge Jameson :

> 'The machinery of amendment should be like a safety valve, so devised as neither to operate the machine with too great facility nor to require, in order to set in motion, an accumulation of force sufficient to explode it. In arranging it, due consideration should be given on the one hand to the requisites of growth and on the other hand to those of conservatism. The letter of the Constitution must neither be idolized as a sacred instrument with what mistaken conservatism which clings to its own worn-out garments until the body is ready to perish from cold nor yet ought it to be made a plaything of politicians to be tampered with and degraded to the level of an ordinary statute.'

Formal amendment of the Constitution and this sought to be achieved through the provision of a process within the body of a Constitutional document, according to William S. Livingston, is perhaps of greater importance than the informal process because it constitutes a higher authority to which appeal lies on any question that may arise. The judicial interpretation may indeed produce many changes but they can do so only within certain limits ; it cannot change the wordings of the basic law ; it cannot take a function from one agency and confer it upon another. The formal method is superior to the informal one

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[1] *Political Science and Government*—p. 538.

[2] *Constitutional Conventions*—p. 549.

[3] *Federalism and Constitutional Change.*

and may be brought about through the informal means. Certain desired changes may be impossible of achievement, such as relating to social and economic reforms, without the verbal changes in the provisions of the Constitution. Further, as already pointed out, the judicial process is slow and a change may be desired early as otherwise there might be stagnation. At times, it becomes necessary to undo some principles which the courts may have laid down but is against popular aspirations and political exigencies. Then there may be some provisions of the Constitution which do not usually figure in the courts and some adjustments therein may be needed and which can be effected by a formal amendment only. These reasons make formal amendment of the Constitution a more effective instrument of constitutional change than the informal methods. It could, therefore, be said that a formal amending process is as important as the process of making the Constitution and as such it may be characterised as the constituent process, the difference between the constituent process and the amending process being one of quantity rather than of quality. Driving home the point that the difference between the two processes is one of extent and object, Mortati aptly observed as follows :

> "While the Constitution establishes a total order, erects a system of values in respect of fundamental conception of an associative life and comprehends the initiation of the State in all its complexity; revision, on the other hand, adapts particular norms or institutions to new exigencies without altering the fundamental features of the body of the Constitution. It follows that which constituent power is exhausted in the very act of creating the Constitution, the power to amend the constitution develops at intermittent periods as gradually the need for adaption manifests itself."

Having considered and established the necessity and importance of an amending process in a constitutional document, the question arises as to the type of amending process required for a country. The answer to this is not a simple one for largely it depends upon what the constitution contains. If its provisions,

like those of a federal Constitution, are all of fundamental import, then a method of amendment or revision is desirable which is sufficiently deliberate and restrictive to assure the most careful and mature consideration of the fundamental law. On the contrary, if most or many of the provisions in a constitutional document are temporary or relatively trivial in character, as is the case in most of the American State Constitutions, placed there frequently as a result of popular distrust of legislatures or certain details for ensuring protection and safeguards to certain minority communities, backward classes etc., it is obvious that it should be easier to amend than those which contain only fundamental laws. Otherwise such provisions cannot be kept adequately adjusted to the changing demands of public policy. Further, the more detailed the matter the Constitution contains, the more imminent is the need for an easy amending process. Social legislation would have been held up if the amending process had not been easier. Generally speaking, there should be an easier and more workable amending process, although it is also likely that if other provisions are properly framed, there will be less need for using them. However, there are Constitutions which might warrant that the various parts of it might be amended by different methods Thus a fairly difficult method might be made applicable to the fundamental parts of the constitution, while an easier procedure could be used to change those provisions of the Constitution which are essentially legislative in character. The American State Constitutions of Oklahama and Virginia, for instance, have applied this principle in a small way by setting up a fairly rigid method of amendment for general use but providing that certain detailed sections might be altered by the legislature alone after the lapse of a certain length of time. Federal Constitutions too warrant a mixed type of amending procedure, a mode of amendment which makes the instrument sufficiently rigid to protect the rights of federating units and which at the same time leaves it flexible enough to facilitate amendment and development as required by the changing needs of society,

From the foregoing observations, it is evident that there could be and as a matter of fact there is a great variety in the

amending processes prescribed in constitutions depending, in the ultimate analysis, on the contents of the different constitutions. That being so it is not easy to find any common principles behind them. However, an analysis of the various modern constitutions would show that they aim at safeguarding one or more of four objectives. The first and foremost objective is that constitutional changes should not be effected in a lighthearted manner of purposely to satisfy the whims of a particular party in power or vested interests but only after mature thought, deep deliberation and as the last resort. The second objective is the ascertainment of the popular will or in other words the people should be given an opportunity of expressing their views before a change is made. The third objective is, particularly applicable to the federal system, that matters concerning the common concern of the units and of the central government as also their distinctive features should not be altered by either party acting unilaterally. It is usually considered best that some form of amendment which involves joint action by the central government and the constituent units should be adopted. The last but not the least objective is the protection that is to be afforded, in a general way, to the language, religion or culture of minorities and less privileged class in society, i.e , the ensuring of communal rights and social justice. To a varying degree and extent the different constitutions of the world have sought to implement the above objectives.

Further, the ingenuity of man has produced so many specific modes of amendment and revision that it is difficult to categorise them into specific groups. There are too many variations in detail. Yet the amending process is characterised by the following features. Firstly, the established arrangements almost always are more difficult and involve more delay than the process of ordinary law-making. Secondly, the function of proposing changes is assigned to one agency and the power of ratification to another. This is done primarily for two reasons, namely, to prevent hasty action and to enable the sharing of power and responsibility among different interests within the body politic. Thirdly, the right to make proposals is usually granted to an ordinary organ of Government, normally, the legislative authorities.

Apart from the above-mentioned features, in a large number of modern Constitutions it is deemed proper that the people or the electorate should have some say in deciding whether an amendment should be made or not. This is based on the principle that any government founded on the democratic principle of popular sovereignty must make possible the fresh assertion of the popular will as that will changes. The peoples' will, however, is discovered in a variety of ways. It may be anything between vesting in the people the power of initiating constitutional amendments to popular approval after it has been passed by the legislature. Thus for example under the Swiss Constitution and quite a few of the American States' Constitutions the initiative and proposals to put forward constitutional amendment is vested in the people. On the other hand, the constitutions of the Republic of Ireland, of Denmark, of the Commonwealth of Australia and of practically of all American States require the amendment proposed to be actually referred to the people after it has been passed by the legislature. The Swiss Constitution, it is to be noted at this juncture, not only vests the power of initiative of constitutional amendments in the Swiss people but also makes it obligatory to refer amendment proposals to the people Yet a different way of ascertaining popular will on revisional proposals is adopted in the Constitutions of Belgium, Denmark, Holland, Sweden, Norway, Columbia, Ecuador and such others. In these Constitutions although the legislature is given the powers to make the amendment, its final passage is deferred till the General Election when people may, if they choose, express their views upon the proposal in voting for candidates at the election. Certain Constitutions, such as the Constitution of the French Fourth Republic, the Italian Constitution of 1948 and the 1920 Constitution of Chile require reference to a popular vote under certain circumstances, the common one being the lack of requisite majority in the legislatures However, it would be of interest to note that a surprising feature of the amending process in the U.S.A. is that no direct participation by the people is permitted. Indeed it has been decided by the U.S. Supreme Court, notably in two cases [Hawke V. Smith, Secretary of State of Ohio, 253 U.S. (1920) 221 and Rhode Island V. Palmer 253 U.S. (1920) 350] that where

Congress had charged the State legislatures with the duty of considering the amendment, they may not, even though the State Constitution demand it, transfer the authority to the electorate by means of a referendum. In holding the Ohio referendum void the Supreme Court said that when Article V speaks of ratification by 'legislature' it meant the 'representative body which makes the laws of the people' with which the founding fathers were familiar. It did not mean a direct vote by the people. Had the framers wished to have federal amendments ratified by direct popular vote they would have said so. The Court further declared that ratification was not a legislative Act. It was a specific duty imposed on State legislatures by the language of Article V, and no State may change the methods therein set out by which that duty was to be performed. It should be pointed out in this connection that Australia has found it difficult to amend the Constitution due to the referendum requirement. R.G. Menzies, an ex-Prime Minister of Australia observed in 1951 as follows :

> 'The truth of the matter is that to get an affirmative vote from the Australian people on a referendum proposal is one of the labours of Hercules. For this last referendum showed us, if we needed proof, the amount of sheer hard lying that goes on in the course of a referendum campaign designed to alter the Constitution. The amount of muddled thinking and speaking that can proceed from minds that are supposed to be improved by university degrees in some cases is quite baffling to me. I don't think you will recall a single instance of a 'yes' vote on constitutional change except a change designed to increase the amount of money being paid by the Commonwealth to someone else'.

A similar observation was made by the Commonwealth Parliamentary Committee of Constitutional Review in 1959. They observed :

> 'Experience has shown that the Constitution is exceedingly difficult to amend..... Negative referendum results have been less the expression of independent State outlook than the outcome of the opposition of political forces to the government of the day —Something should be done to reduce the

excessive rigidity which experience has shown that section 128 possesses.' (Quoted page 60, Australian National Government by L F. Crisp.)

Generally speaking, the type of amending process required for a country should satisfy three tests, namely :

(1) Will the article or articles meant for the amendment of the Constitution work ? Can practical use be made of it, so that actual changes in the fundamental law may be secured ?

(2) Does the amending process designed recognise and tend to maintain the distinction between ordinary law on the one hand, and the fundmental law of the Constitution on the other ? If not, again the process is defective.

(3) Is the amending process of such a nature as to be reasonably responsive to the popular will ? This does not mean that the initiative proposal should be there for there are methods of legislative proposal in connection with which effective popular control is possible. But this does not mean that a process under which popular control is impossible or ineffective is a poor one.

Having considered the necessity, the variety and the place of amending process in the constitutional document, it now requires to be seen as to what a constitutional amendment process involves or in other words, the different stages or steps that must be accomplished before an amendment could be added to a Constitution. Broadly speaking, there are two steps that must be taken before an amendment is effected, namely, (1) amendment must be initiated ; and (2) the amendment must be ratified. There are four methods by which States initiate amendments to their Constitutions : (1) through legislative action, the most common method ; (2) through popular initiative ; (3) through State Conventions ; and (4) through executive action, a rather less common method. Practically all Constitutions of the world, a notable exception being the New Hampshire State Constitution of the U.S.A., provide at least technically for some method of legislative initiative. While some States allow a majority of the members elected to initiate an amendment, most States require an unusual majority of both Houses, customarily two-thirds or three fifths of the members elected. Quite a number of States admit of initiative for proposals

to amend the Constitution to the people. The classic example of popular initiative for constitutional amendment is Switzerland. The Constitutions of the U.S.A. and New Hampshire are the examples of initiative being vested in a State Convention. It is worthy to note in this connection that although the New Hampshire Constitution of 1784 has been amended over ninety times through this process, the Constitution of the U.S.A. has never used this procedure and has probably fallen into the discard although there is a current movement afoot to call such a convention for the purpose of limiting the taxing powers of the Federal Government. The Constitutions of the Kingdom of Laos, the Republics of Korea, Lebanon, Libya and Syria are illustrative of the initiative being vested in the hands of the executive.

Now there are three methods of which ratification could be effected, namely, (1) through legislative action, a method in federations where the legislatures of the constituent units express their opinion ; (2) through conventions, as for instance the alternative method provided for under Article V of the U.S. Constitution; and (3) through popular referendum, a classic example of which is to be found provided for under the Swiss Constitution. It is to be noted in this connection that the requirement of actual number of constituent States and the legislatures thereof for ratification purposes vary anything between one-half to three-fourths in the various Constitutions.

A question that has been posed in federal Constitutions wherein ratification by the constituent State legislatures have been provided is in respect of the time within which such ratification should be done. As a constitutional amendment is meant to achieve an objective enshrined in the Constitution itself or of social good, it is obvious that in a dynamic society the amendment must be ratified within a reasonable time. Exactly what is a reasonable time is subject to much discussion, if not controversy. In the U.S.A. the matter came up before the Supreme Court more than once. In Dillon V. Gloss U. S. 368 (1921) when the matter came up before the U.S. Supreme Court, the Court held that it could be fairly inferred from the amending clause of the Constitution that the ratification must be within some reasonable time after the proposal and that the Eighteenth amendment was not uncondi-

tionally adopted because of the fact that Congress in submitting it to the States stipulated that it should be inoperative unless ratified within seven years. Congress could validly place a reasonable limit on the period of ratification and seven years was a reasonable period, the judgement added. The Court declared :

> 'Of the power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt—whether a definite period for ratification shall be fixed, so that we all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification. It is not questioned that seven years, the period fixed in this instance, was reasonable, if power existed to fix a definite time ; nor could it well be questioned considering the periods within which prior amendments were ratified. '

Justice Van Devanter in that case observed pointedly :

> 'We do not find anything in the Article V which suggests that an amendment once proposed, is to be open to ratification for all time, or that ratification in some of the States may be separated from that in others by many years and yet be effective. We do find that which strongly suggests the contrary.'

That the time should be reasonable and short, as far as possible, is evident from the following arguments advanced in that case. Firstly, the proposal and ratification are not treated as unrelated acts but as successive steps in a single endeavour, the natural inference being that they are not to be widely separated in time. Secondly, it is only when there is deemed to be a necessity therefore that amendments are to be proposed, the reasonable implication being that when proposed they are to be considered and disposed of presently. Thirdly, as ratification is but the expressing of approbation of the people in the last resort and is to be effective when had in the requisite number of States, there is a fair implication that it must be sufficiently contemporaneous in that number of States to reflect the will of the people in all sections at relatively the same period, which, of course, ratification carried

through a long series of years would not do. These reasons would lead to the conclusion expressed by Judge Jameson of the U.S. Supreme Court that 'an alteration of the Constitution proposed to-day has relation to the sentiments and felt needs of to-day and that if not ratified early while that sentiment may fairly be supposed to exist, it sought to be regarded as waived.'

The question was before the Supreme Court of the U. S. A again in 1938 in the case Coleman V. Miller (307 U.S. 433) considering the proposed Child Labour Amendment then pending before the States legislatures. This amendment contained no time-limit for adoption and consequently it was contended that the court can and should decide what is a reasonable period within which ratification may be had. The facts of the case were as follows : In January 1925, the legislature of Kansas rejected the amendment and notified the Secretary of State of the U.S. of its rejection. In January 1937, it adopted another resolution, ratifying the amendment. In this case, however, the Supreme Court held that the question of what is a reasonable time as well as the right of the legislature to ratify the amendment, after it had previously rejected were "political questions" for the consideration of the Congress, to be considered by it when the amendment came before it or the Secretary of State for promulgation. Chief Justice Hughes delivering the opinion of the Court in the case observed :

> 'In short, the question of a reasonable time in many cases would involve, as in this case, it was involved, an appraisal of agreat variety of relevant conditions polititical, social and economic, which can hardly be said to be within the appropriate range of evidence receivable in a court of justice and as to which, it should be an extravagant extension of judicial authority to avert judicial notice as the basis of deciding a controversy with respect to the validity of an amendment actually ratified. On the other hand, these conditions are appropriate for the consideration of the political departments of the government. The questions they involve are essentially political and not justiciable. They can be decided by the Congress with the full knowledge and appreciation

ascribed to the national legislature of the political, social and economic conditions which have prevailed during the period since the submission of the amendment.

'Our decision that the Congress has the power under Article V to fix a reasonable limit of time for ratification in proposing an amendment proceeds upon the assumption that the question, what is reasonable time lies within the Congressional province. If it deemed that such a question is an open one when the limit has not been fixed in advance, we think that should also be regarded as an open one for the consideration of the Congress when, the presence or certified ratifications by three—fourths of the States, the time arrives for the promulgation of the adoption of the amendment. The decision by the Congress, in its control of the action of the Secretary of State, of the question whether the amendment had been adopted within a reasonable time would not be subject to review by the courts.'

A concurring opinion by Mr. Justice Black, joined by Justices Roberts, Franfurther and Douglas, urged that the Court should have disapproved Dillon V. Gloss in so far as it decided judicially that seven years was a reasonable time-limit for Congress to place upon ratification of an amendment. That question too was political, they contended. They concluded that 'the process (of amendment) is political in its entirety, from submission until an amendment becomes part of the Constitution, and is not subject to judicial guidance, control or interference at any point.' Thus, therefore, the present position so far as the time for ratification by the State legislatures is concerned is that it is a political question and that the Congress has the ultimate say in the matter which of course would not be subject to review by the Supreme Court of the U.S.A.

2

An Analysis of Amending Provisions in the Constitutions of the World

To enable the proper appreciation of the amending process under article 368 of the Indian Constitution it is necessary to examine the provisions made in other written Constitutions of the World for purposes of carrying out amendments to the basic constitutional document as and when that is required. It would also require to spell out the important and distinctive features in their amending process. In this Chapter, therefore, an analysis has been made of the amending provisions of as many written constitutions of the world as were available. The text of the Amending Clause or Clauses of the Constitutions analysed in this Chapter has been included in the Appendix.

Australia

The Constitution of the Commonwealth of Australia of July 9, 1900 provides rather in a detailed way, in article 128, the procedure for constitutional alteration. It is required according to the article, that a proposed law for alteration should be passed, at the first instance, by an absolute majority of each House of the Parliament. Two to six months after its passage by Parliament, the proposed law is required to be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives and vote taken in the manner prescribed by the Parliament. If then, the proposed law is approved by a majority of the electors voting in a majority of the States as also by a majority of all electors voting, it is presented to the Governor-General for the Queen's assent.

It is, however, provided that until the qualification of electors

of members of the House of Representatives becomes uniform throughout the Commonwealth, only one half of the electors voting for and against the proposed law would be counted in any State in which adult suffrage prevails.

The amending clause also provides that the proposals on the following matters would not become law unless the majority of the electors voting in that State approved them, namely :

(1) diminution of the proportional representation of any State in either House of the Parliament, or

(2) the minimum number of representatives of a State in the House of Representatives, or

(3) increasing, diminishing or otherwise altering the limits of the State, or

(4) in any manner affecting the provisions of the Constitution in respect of the above.

Further the amending clause provides for resolving a deadlock consequent on one House passing a proposed law by an absolute majority and the other rejecting, failing to pass or passing it with any amendment to which the other House would not agree, by stating that if after an interval of three months the first House, in the same or the next session again passed the proposed law by an absolute majority with or without any amendment which had been made or agreed to by the other House and that House rejected, failed to pass or passed it with any amendment to which the previous House would not agree, the Governor-General might submit the proposed law as latter proposed by the first House, either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

The above procedure makes constitutional amendment difficult and rigid in the sense that a proposal has not only to be passed by an absolute majority of Parliament but also has to be approved by a majority of electors voting in a majority of States as also by a majority of all the electors voting. In other words an amendment proposal is subject to Parliamentary, States' and peoples' approval.

Afghanistan

According to the Constitution of Afghanistan of 1964, barring the basic principles of Islam, the constitutional monarchy and the provision that the King shall be an Afghan national, a Muslim and a follower of the Hanafi doctrine, all the other provisions of the Constitution could be amended on an initiative by the Council of Ministers, or one-third of the members of the House of the People or the House of Elders. Such a proposal is first discussed by the Great Council and in case a majority of the members of that body approves its necessity, a committee from amongst its members is appointed to formulate the amendment, with the advice of the Council of Ministers and the Supreme Court. The draft amendment as formulated by the committee is submitted to the Great Council, which after approving it by a majority of its members submits it to the King. Subsequently the King dissolves the Parliament, circulates the draft amendment to the public and proclaims the date of the new elections, which should take place within four months from the dissolution of the Parliament. Following the opening of the new Parliament and the formation of the Government, the King summons the Great Council, which after consideration, either approves or rejects the text of the draft amendment. If the Great Council approves of the amendment proposal by a two-third majority it is sent to the King for his signature and after the King's signature the amendment comes into effect.

Important features :

(1) A difficult and complicated procedure : the final say in the matter of amendments vested with the Great Council.

(2) Initiative vested with the Council of Ministers of one-third of the members of either House of Afghan Parliament.

(3) A special committee to formulate the amendment which acts with the assistance of the Council of Ministers and the Supreme Court.

(4) The dissolution of the Parliament after a proposal for amendment of the Constitution had been made and the

circulation of the draft amendment to the public. Fresh elections to constitute a new Parliament.

(5) The participation of the King, two Houses of Parliament the Council of Ministers, the Great Council, the Supreme Court and the people in bringing about an amendment of the Constitution.

Belgium

In Belgium, according to the Constitution of 1831 which is still in force, with subsequent amendments, the process is simple but it is difficult to carry out any amendment. According to article 131, the Belgian Parliament (both the Houses) is dissolved after it had declared that a Constitutional proposal was in order. A new Parliament was then summoned to consider the proposal found to be in order by the Parliament that was dissolved. The new Parliament was not competent to discuss the proposal unless two-thirds of the members of each House were present. No amendment so discussed was adopted unless it was supported by at least two-thirds of votes.

The three important features of the amending procedure in Belgium are :

(1) The need for Parliament to declare a constitutional proposal as in order.

(2) The dissolution of the Parliament which has found the form and propriety of a constitutional amendment in order and its discussion only by a new Parliament.

(3) The insistence of a high quorum requirement for the consideration of a constitutional proposal.

Bolivia

Articles 174 to 177 outline the procedure for constitutional amendments under the Bolivian Constitution of November 23, 1945. A proposal suggesting that need for a constitutional amendment could originate in either House of Bolivian Congress in the form of a Bill. The necessity for such a proposal as also the form in which it should be made was then required to be approved and passed by two-thirds of the votes of the members present in each House. The law providing for the amendment

was then sent to the executive for its promulgation. The next stage was the consideration of the actual amendment proposal at the first meeting of the session of the Congress in which the members of the Chamber of Deputies had been renewed by the House wherefrom the suggestion had emanated. It was then required to be passed, separately, by both the Houses by two-thirds of the members present and voting, in conformity with the constitutional requirement in that regard. The Constitutional proposal as approved by the Congress in the above manner became a law to be enforced by the executive, even without the Presidential assent, as he had no option but to accept the decision of the Congress.

It was also provided that a constitutional amendment Act relating to the term of office of the President of the Republic would only come into force in the subsequent Presidential period.

The noteworthy features of the amendment procedure, therefore, are :

(1) The amending procedure spread over four articles.

(2) The Congress approval of the necessity and the form of a Constitutional amendment proposal.

(3) Its consideration by the members of the next Congress with renewed membership.

(4) The non-requirement of Presidential assent to amendment proposals.

Burma

The procedural aspects are contained in Articles 209 and 210, although four articles are devoted for purposes of amendment to the Constitution under the Burmese Constitution. A Bill containing proposals for constitutional amendment could originate in either Chamber of Parliament but has to be passed by both the Chambers, separately, by a majority of votes. After it has been passed by the two Houses separately, the Bill has further to be passed by the Parliament, at a joint sitting of both the Houses, by not less than two-thirds of the total membership of both Chambers voting for the proposal. The Bill as passed

by the Parliament in the above manner is subsequently presented to the President, who is obliged to give assent to it, by signing the Bill.

The Constitution also provides that the following matters would not be deemed to have been passed at the joint sitting of the Chambers unless a majority of the members, representing the State or each of the States concerned as the case may be, present and voting, have voted in its favour, namely :

(a) The State Legislative List in the Third Schedule;

(b) The State Revenue List in the Fourth Schedule;

(c) A parliamentary enactment seeking alteration in the provision relating to the removal of the qualifications of any person for membership of the Parliament as representative from any of the States.

Further it is provided that a Bill seeking to abridge any special rights conferred by the Constitution on Karens or Chins could not be considered to have been passed at the joint sitting unless a majority of members, representing the Karens or the Chins, present and voting, had voted in its favour.

The distinguishing features of the amending provisions are :

(1) An article devoted to define the scope and methods of constitutional amendments.

(2) An article stating that the proposal would have to be expressed in the form of a Constitutional Bill and that such a Bill should contain nothing else than such proposals

(3) Approval of the Bill at a joint sitting apart from the approval by each House separately.

(4) Special requirement of majority at joint sitting for certain matters.

(5) Protective clause in respect of special rights guaranteed, to certain communities, under the Constitution.

(6) The obligatory nature of the Presidential assent.

(7) Matters relating to amendment spread over four articles.

Brazil

Matters relating to the amendment of the Brazilian Constitution is contained in article 217 of the Constitution of the United States of Brazil of September 24, 1946. According to that article a constitutional amendment proposal, which is kept alive for two years, could be made, either by one-fourth of the members of the Chamber of Deputies or by one-fourth of the members of the Federal Senate or by more than one-half of the legislative assemblies of the State, with the approval of members, in each case. Such a proposal would be considered accepted if it was approved by an absolute majority of the two Houses, meeting separately in two ordinary consecutive legislative sessions and discussed the proposal twice over. The amendment proposal was then required to be passed separately by both the Chambers, in two discussions, by a vote of two-thirds of its members. The proposal so passed became part of the Constitution after promulgation by the executive committee of the two Houses and publication over the signatures of the members of both committees.

It was provided that the Constitution could not be modified while a state of siege was in force. Further, it was also provided that an amendment Bill tending to abolish the Federation and the Republic would not be admitted for consideration.

The important features are :

(1) Prescription of a minimum requirement of members of Parliament to initiate amendment proposals.
(2) Power being given to legislative assemblies of the States to initiate amendment proposals.
(3) The provision of a time-limit keeping the constitutional proposal alive.
(4) The provision of consideration and approval by the Federal Parliament of the proposal in two separate discussion meetings, to ensure against haste and ill-consideration.
(5) Publication of the amendment passed with the signatures of the members of the executive committee of both the Houses.

(6) Prohibition of the initiation of amendment proposals during a state of siege.

(7) Prohibition of amendment proposals relating to the abolition of the Federation and the Republic.

Bulgaria

The Constitution of the People's Republic of Bulgaria could be amended according to the provision of article 99 of December 4, 1947. A Constitutional amendment proposal could be initiated either by the Government or by at least one quarter of the deputies. It was required that such a proposal, in the form of a Bill, was put on the agenda of the National Assembly within a week of its introduction in the Assembly. The Bill has to be passed by a majority of two-thirds of the total number of deputies to become law. It would, however, come into force only on the day of its publication in the State Gazette.

The important features are :

(1) An amendment Bill has to be considered by the Assembly within a week of its introduction in the Assembly.

(2) An amendment proposal would become effective only on the day of its publication in the State Gazette.

Byelorussian Soviet Socialist Republic

Article 122 of the Constitution of the Byelorussian Soviet Socialist Republic provides that the modification of the Constitution could only be made upon a decision of the Supreme Soviet of the B.S.S.R., when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

Important feature :

A brief and simple procedure.

Canada

The problem of formal Constitution amendment is more complex and difficult in Canada than in any other federation, and perhaps more so than in any other country whatever. This is due to the fact that, although, it was written, the Canadian Constitution contains no provision for its own amendment. There is no clause in the Constitution setting out a procedure whereby the

provisions of the Constitution itself might be legally modified. There is still doubt as to what is the actual process of amendment. It is supposed that this new Constitution, being an Act of Parliament, would naturally, be subject to amendment by that Parliament. If a need for a change arose, Parliament would always be there to enact it. The people of Canada have so far been unable to decide what method of amendment they would like to have inserted in the Act, and no action can be taken until they somehow contrive to make up their minds.

Consequently, no one knows exactly how many times the Constitution of Canada has been amended. Yet R. MacGregor Dawson in 'The Government of Canada' discerns till date seventeen amendments, one of which (amendment of 1949) gave Parliament of Canada power to amend the British North America Act except as regards provincial matters and subjects, constitutional guarantees regarding education and the use of the English and French language, and the parliamentary annual session and five-year maximum term. However, in time of real or apprehended war, invasion or insurrection the five-year term may be extended by Act of Parliament if the extension is not opposed by the votes of more than one-third of the members of the House of Commons.

Dawson further classified the seventeen amendments to the Canadian Constitution into three groups, namely :

(1) Amendments passed to clarify the powers granted by the British North America Act—3 amendments effected in the years, 1871, 1875 and 1895—'An Act to remove doubts'.

(2) Amendments of only temporary duration—2 amendments effected in the years—1916 and 1943.

(3) Amendments which have made substantive changes in the Act—14 amendments effected in the years, 1871, 1875, 1886, 1889, 1907, 1915, 1940, 1930, 1946, 1949 (Two), 1951, 1960 and a Canadian Act passed under the authority of the second amendment of 1949.

Cambodia

Articles 97 to 110 of the Constitution of the Kingdom of

Cambodia of May 6, 1947 relate to the question of constitutional amendment. According to article 99, the initiative of the revision of the Constitution vests with the King, the Prime Minister and the Presidents of the two Houses, made at the request of at least one-fourth of the members of either House, the President of which ensuring its favourable vote. An amendment proposal has got to be passed by a majority of votes in each House. However, in order to declare an emergency, a majority of three-fourths of the National Assembly is required.

Articles 97 and 98 provide that no motion for the revision of the following matters could be moved, namely :

(1) The monarchic form of the State ;

(2) The representative character of the system of Government ;

(3) The principles of liberty and equality guaranteed by the Constitution ;

(4) For limiting the rights reserved to the Royalty by the Constitution.

Important features of the provisions are :

(1) The procedure adopted for a constitutional Bill is the same as for an ordinary Bill i.e. a simple majority requirement in both the Houses.

(2) Special majority of the Lower House required to declare an emergency.

(3) Prohibition of constitutional changes in respect of rights guaranteed under the Constitution.

(4) Prohibition of constitutional changes in respect of three other matters also

(5) The amending provision spread over four articles of the Constitution.

Chile

The amending procedure of the Political Constitution of the Republic of Chile is contained in article 108 to 110 of the Constitution of September 18, 1925. The procedure adopted for the amendment of constitutional provisions is the same as that adopt-

ed for ordinary legislation, excepting for the fact that the Bill for amending the Constitution must receive the affirmative vote of a majority of the members of the two Houses who are entitled to vote. Sixty days after the approval of the Bill it is required to be voted on, without further debate, by the Congress in public joint session with the attendance of a majority of its total membership. The Bill as approved by a majority of the joint session of Congress is sent to the President of the Republic who could, if he so wishes, make observations upon the Bill only to propose changes or corrections in the amendments agreed upon by the joint session of the Congress. If the modification made by the President of the Republic are approved by both Chambers the Bill is returned to the President for promulgation.

Provisions are also made to meet situations such as resulting from the non-attendance of members to constitute a majority of the total membership of the Congress and the two Chambers rejecting all or any of the suggestions of the President of the Republic. In the former case if the minimum quorum requirement is not there, the session of the Congress is held on the following day with such deputies and senators as may be in attendance. In the latter case, after rejecting all or any of the suggestions of the President of the Republic, if the Congress insists by a vote of two-thirds of their members present upon the Bill or part of the Bill approved by them, it is returned to the President who could either promulgate it or submit it to the people in a national referendum, within thirty days, for approval.

The noteworthy features are :

(1) Approval of a Bill not only separately by the two Houses but also by the joint session of the Congress held for the purpose after a stipulated time.

(2) The requirement of a certain minimum attendance at the joint session of the Congress and the procedure to be adopted if that was not got.

(3) President's power to effect changes in the amendment proposal as approved or modified at the joint session of the Congress and the procedure to be adopted if that was not accepted by the joint session of the Congress.

(4) Provision for submission of an amending Bill to popular referendum, under certain circumstances.

(5) Matters relating to the amendment of the Constitution spread over three articles.

China

Article 174 of the Constitution of the Republic of China of December 25, 1947 suggests two alternative methods for the amendment of the Constitution. The first method is through a proposal made by one-fifth of the total number of the representatives of the National Assembly and approved by a resolution of three-fourths of the representatives present at a meeting wherein it is expected that there should be a quorum of two-thirds of the entire membership of the Assembly. The second method is that a proposal could be made by one-fourth of the members of Yuan Assembly and approved by that body by a resolution of three-fourths of the members present at a meeting wherein it is expected that there should be a quorum of three-fourths of the entire membership of the Yuan. However, in the second case, the proposal so approved has to be submitted to the National Assembly for ratification.

It is also provided that the proposed amendment to the Constitution should be published six months before the coming into session of the National Assembly.

Important features of the provision are :

(1) Although Bills containing constitutional proposals could be initiated in either House, distinction is made between the two Houses in respect of minimum requirement for initiation and quorum.

(2) A distinction is also made between the Bills from the point of view of their origin, namely, that while a Bill that emanates from the Lower House requires no ratification by the other House, a Bill emanating from the Upper House has to be ratified by the Lower House.

Columbia

The Constitution of the Republic of Columbia, of February

16, 1945 according to article 218, could only be amended by a legislative act first discussed and approved by the Congress in its ordinary sessions and subsequently debated by the legislature from which the Bill had emanated, specifically in the following session. Thereafter, the proposal has to be approved by an absolute majority of members of each House. The Bill becomes law after its publication by the Government.

It is also provided that if the Government does not publish the Bill in due course, the President of the Congress would do so.

The noteworthy features of the provision are :

(1) Discussion of an amending Bill in two successive sessions of the Legislature.

(2) The President of the Congress empowered to publish the amendment Bill, if the Government did not choose to do so.

Czechoslovakia

Section 172 of the Constitution of the Czechoslovak Republic of June 9, 1948 provides that a Constitution may be amended and supplemented only by Acts which are designated as Constitutional Acts and are enacted, under the provisions of sub-section 2 of Section 54 of the Constituion, if adopted by a three-fifths of all the deputies.

Important features of the provision are :

(1) The method of amending the Constitution is not contained in an exclusive or specific article of the Constitution.

(2) A simplified procedure but with a higher majority requirement.

(3) Adoption procedure in respect of constitutional amendment is included along with two other matters in the same section as the majority requirement for them is the same.

Costa Rica

Articles 195 and 196 of the Constitution of Costa Rica of November 8, 1949 pertain to the amending procedure. A detailed

and rigid procedure is outlined. A proposal in which the amendment of one or more articles is sought has got to be presented at the first instance, to the Assembly at a regular session, signed by at least ten deputies. Such a proposal is read in the Assembly three times at interval of six days, to determine whether or not to admit it for discussion. On admission by the Assembly, the proposal is sent to a Committee appointed by a decision taken by an absolute majority of the Assembly, for examination. The Committee is to submit its report on the proposal within a period of eight days. Subsequently, the report is to be discussed in the Assembly and the changes or alterations made in it are to be approved by a vote of not less than two-thirds of the membership of the Assembly. After its approval of the proposal as reported by the Committee, the Assembly is expected to prepare a corresponding amendment Bill, through a committee, discuss and pass it by an absolute majority of the Assembly. The amending Bill after its passage through the Assembly is sent to the President who, with his observations and recommendations sends it back to the Assembly in the form of a Presidential Message. The Bill, with the Presidential observations and recommendations thereon, is then discussed in the first session of the Legislative Assembly in three debates and if it is approved by a vote of not less than two-thirds of the entire membership, it becomes part of the Constitution.

If however, instead of certain specific article or articles, a general amendment of the Constitution is sought, it has not only got to be approved in accordance with the procedure outlined above, but has also got to be approved by a Constituent Assembly, called for the purpose.

The noteworthy features of the provisions are :

(1) A distinction made in the procedure to be adopted between proposals for partial and general revisions.

(2) The specification of time-limit at various stages of the discussion of the proposal.

(3) The procedure of reading thrice over, the proposal at regular intervals for purposes of admission of discussion

and also for ensuring the absolute necessity for such proposals.

(4) The scrutiny of the proposal by a special committee.

(5) The President's power to make observations and recommendations on the Bill as approved by the Assembly.

(6) The scrutiny of partial revision question by the Assembly at three different stages, namely, (a) proposal stage (b) constitutional Bill stage ; and (c) the stage subsequent to Presidential observation on the Bill.

(7) The requirement of approval by a Constituent Assembly of a general revision proposal.

Cuba

The methods and forms of amending the Constitution, in a detailed manner, is contained in articles 285 and 286 of the Constitution of the Republic of Cuba of July 5, 1940. According to article 285, the initiative for constitutional revision vests either with the People or with the Congress. Either 100,000 voters who know how to read and write could, with their signatures, propose an amendment, in which case the Congress in its joint session, is obliged to make preparations for an election of delegates or a referendum, within thirty days of the receipt of the proposal or the Congress with the signatures of one-fourth of the members of each House could make a proposal.

If the proposal is for specific or for partial revision and is made by popular initiative, it is submitted to a referendum at the first election that is held wherein the proposal is made to the people in a manner that they have merely to say 'yes' or 'no' to them. If, however, such a special or partial proposal is initiated by the Congress then it is necessary for it to approve it by two-thirds of the total numbers of both Houses, jointly assembled and further ratified in the similar manner by the joint Assembly, within the following two regular sessions.

If, however, the revision is complete or relates to the national sovereignty or to articles 22, 23, 24 and 87 of the Constitution or to the form of the government, besides compliance with the procedure outlined above, according to whether the initiative

comes from the people or from Congress, the proposal has to be submitted to the approval or rejection of a plebiscitary assembly duly elected for the specific purpose, six months after it is decided upon to present the proposal to such an Assembly.

Further, if the proposal for revision relates to re-election to constitutionally prohibited or to the continuance in office of any officer for a period longer than that for which he was elected it has got to be approved by three-fourths of the total membership of the Congress at a joint session and ratified at a referendum by a favourable vote of two-thirds of the total number of votes in each Province.

The distinctive features of the provisions are :

(1) The provision for initiation of a proposal through the popular initiative.

(2) Provision of three different methods of procedure for three categories of amendments, namely, partial or specific ; complete or certain vital matters ; and re-election or continuance of certain offices.

(3) Provision for submitting constitution proposals to popular referendum or plebiscitary Assembly and the details thereof

(4) Initiation, consideration and approval of constitutional proposals only by joint sittings of both the Houses.

Denmark

Article 88 of the Constitution of the Kingdom of Denmark of 15th June, 1953 provides for alterations in the Constitution. According to it,first of all, the Folketing (Parliament) has to pass a Bill for the purpose of making the new constitutional provision Thereafter, if the Government wishes to proceed with the matter, then it could be considered only by a fresh Folketing, the members of which are elected through writs issued by the Government. After consideration, if the new Folketing passes the Bill, unamended the Bill is submitted to the electors for approval or rejection by direct voting. There, if a majority of persons taking part in the voting and at least forty per cent of the electorate has voted in favour of

the Bill as passed by the Folketing, it becomes law, with the Royal assent being given.

Important features of provision are :

(1) The consideration of a revision proposal made by the Parliament by a freshly constituted Parliament.

(2) Submission of a constitutional Bill to a popular referendum.

(3) Requirement of approval at the popular referendum of not only a majority of persons taking part in the voting but also of certain percentage of the entire electorate.

(4) A very rigid procedure.

Estonia

Articles 87 to 89 of the Constitution of the Estonian Republic of 15th June, 1920, provided for the amending procedure. According to it the initiative in the matter of amendment vested with the people, exercised in the form of a popular initiative or by the State Assembly in the ordinary manner. In either case it had to be submitted to popular referendum for approval.

It was the requirement of the Constitution that an amendment proposal should be published for the information of the public at least three months before it was put to popular vote.

The noteworthy features of the provisions are :

(1) Initiative in the matter of amendment proposal also vested with the people.

(2) Submission of a constitutional proposal to a popular referendum.

(3) Requirement of publication of amendment proposal, for information, three months before it was put to popular vote, in order to ensure that adequate time was given to the people for consideration of amendment proposals to the Constitution.

Dominican Republic

Amendment of the Constitution of the Dominican Republic of 10th January, 1947 could only be done in accordance with the

procedure outlined in articles 108 to 112 of the Constitution. According to article 108, the Constitution could be changed if only two-thirds of the members of each Chamber of the Parliament so agree. The necessity for the reform being declared, it was expected that the Congress by law would convene a meeting of a revisory assembly, consisting of members elected directly by the people of the Province, to consider and pass the reform.

It was provided that the Constitution would not be amended so as to change the form of Government of the Republic, which would always be civil, republican, democratic and representative. Further, it was provided that the reform of the Constitution would be made only in the manner indicated above and that such a procedure would never be suspended or annuled by any power, authority or any popular acclamation.

The important features of the provisions are :

(1) The consideration of constitutional reform by a revisory assembly duly elected by popular vote.

(2) The exclusive character of the reform procedure and its suspension or annulment not being possible.

(3) Prohibition of amendment proposal seeking to change the form of Government.

(4) Matters relating to amendment and reform spread over five articles.

Ecuador

Article 190 of the Constitution of the Republic of Ecuador of December 31, 1946 provides that the Congress, in an ordinary session, could discuss any Bill concerning constitutional amendment like any ordinary legislative Bill. After the approval of the Bill by both Houses, it is sent to the President of the Republic for publication and his comments thereon. Thereafter the Bill has to be considered and passed at the next regular session of the Congress after an election of Deputies in a single debate and by a majority of its total membership. It is obligatory on the part of the President of the Republic to accept the amendment as passed by the Congress and to promulgate it.

The noteworthy features of the provision are :

(1) The passage of a Constitution amendment Bill by a fresh Congress, other than the one which had discussed the proposal of amendment to the Constitution.

(2) The specification that the Bill be passed in a single debate and by a majority of all the members of the Congress.

(3) The obligatory nature of the Presidential assent.

El Salvador

According to article 223 of the Constitution of El Salvador of September 8, 1950, an amendment proposal could be initiated only by a two-thirds vote of the elected representative of the Assembly, expressed through a resolution. The resolution and the proposed amendment is then required to be published in the Official Diary and thereafter taken up for consideration in the following Legislative Assembly. If the latter Legislative Assembly ratifies the measure, it is finally submitted for enactment by a Constituent Assembly convoked for the purpose.

The important features of the provision are :

(1) The ratification by a subsequent Legislative Assembly required of a Constitution Amendment Bill which had been initiated and a resolution passed thereon by a Legislative Assembly.

(2) The requirement of publication in the Official Diary of a Constitution amendment proposal.

(3) The provision for convoking a Constituent Assembly for the enactment of an amendment measure.

French Fifth Republic

Articles 90 to 95 of the Constitution of the French Republic of September 28, 1964 relate to the revision of the Constitution. Revision of the Constitution could only be possible if at the first instance a resolution to that effect stipulating the reasons thereof was adopted by an absolute majority of the members of the National Assembly. The resolution was then referred to the Council of the Republic which had also to adopt a similar

resolution, by a similar majority. Subject to the time taken for the adoption of the resolution by the Council, but in any case not before three months, the resolution was to have a second reading under the same rules of procedure as the first. After the second reading, the National Assembly was to draw up a Bill to revise the Constitution. The Bill was then submitted to both Houses of Parliament, where it was required to be voted by a majority and according to the rules established for any ordinary act of the legislature. If, however, at the second reading, the amendment proposal was not adopted either by a two-thirds majority of the National Assembly or by three-fifths majority of each of the two Assemblies, the proposal was submitted to a referendum where it was to be adopted by a majority vote. Within eight days of its adoption, the Bill was to be promulgated as a constitutional law.

It is provided that no constitutional revision relating to the existence of the Council of the Republic could be made without the concurrence of the Council or resort to a referendum. Further, it is provided that a Constitutional Committee, presided over by the President of the Republic and consisting of the Presidents of the two Houses, seven members elected by the National Assembly at the beginning of each annual session by proportional representation of party groups and chosen outside its own membership, and three members elected under the same conditions by the Council of the Republic, could also, after examining the laws passed by the National Assembly, determine whether such laws warranted a revision of the Constitution or not. During the period between the passage of the law by the Parliament and its promulgation, a joint request from the President of the Republic and the President of the Council of the Republic, the latter having decided by an absolute majority of its members, could be made to the Constitutional Committee to the effect that the Bill be passed by the National Assembly would warrant a constitutional revision and hence should be modified or refrained. Thereon the Committee was to examine the law and strive to bring about agreement between the National Assembly and the Council of the Republic But if it did not succeed, it had to decide the matter within five days, a period that

could be reduced to two days in case of emergency, after it had received the request. It should be noted in this connection that the Committee's competence to decide on the possibility of revision was restricted to first ten titles only. A law which in the opinion of the Committee implied a revision of the Constitution was to be sent back to the National Assembly for reconsideration. If, however, the Parliament adhered to its original vote, the law was not to be promulgated until the Constitution had been revised as outlined in para one above. The law, otherwise considered to be in conformity with Titles 1 to 10, was to be ordinarily promulgated within ten days, five days in case of emergency, after the text as finally adopted had been sent to the Government. But if it has to be examined by the Constitutional Committee, it could be prolonged by another five days ordinarily and two days in case of emergency.

Article 94 prohibited amendment to the Constitution in case of occupation of all or part of the metropolitan territory by foreign forces.

Article 95 prohibited any amendment proposal to change the republican form of government.

The significant features of the provisions are :

(1) Need to adopt resolution by both Houses by absolute majority, deciding on revision to be undertaken.

(2) The Bill drawn up at the second stage and the stipulation with regard to time for second reading.

(3) Submission to referendum in case the requisite majority was not got at the second reading stage.

(4) Specification of time-limit for promulgation.

(5) Special provision regarding amendment relating to the Council of the Republic.

(6) The provision of a Constitutional Committee to examine law that might warrant revision of the Constitution.

(7) The procedure to be adopted by the Constitutional Committee to ensure making of laws that might not warrant constitutional revision.

(8) The stipulation of time in respect of various stages of consideration.

(9) Total prohibition of amendment to the Republican form of Government.

(10) Suspension of revisionary procedure during foreign occupation of all or part of the metropolitan French territory.

German Democratic Republic

Article 83 of the German Democratic Republic Constitution of 19th March 1949, provides that the Constitution might be amended by legislation. The Peoples' Chamber could enact legislation to amend the Constitution only if at least two-thirds of the representatives were present and such enactments required a two-thirds majority of those present

The Constitution could also be amended by means of a (popular) referendum, if approved by a majority of those entitled to vote.

Important features of the provision are :

(1) The Constitution could be amended through the process of legislation.

(2) Prescribes a quorum of 2/3rds for the consideration of a Constitution amendment.

(3) Amendment proposal requires to be passed by atleast two-thirds majority of those present.

(4) Permits constitutional amendment also to be made by means of a referendum

Federal Republic of Germany

Article 79 of the Basic Law for the Federal Republic of Germany of 23rd May, 1949 provides that the Basic Law could be amended only by a law, which expressly alters or adds to the text of the Basic Law, requiring the approval of two-thirds of total membership of the Bundestag and two-thirds of the members present and voting of the Bundesrat. It also provides that the matters relating to international treaties, peace settlement, preparations for a peace settlement, the alleviation of regulations arising from occupation, the defence of the Federal Republic, the

amendment would only confine itself to the wording so as to clarify that the provisions as laid down in the Basic Law are not inconsistent with the conclusion and effectiveness of the treaties. It further provides that an amendment to the provisions relating to the organisation of the Federation into Laender, the basic cooperation of the Laender in legislation or the basic principles laid down in Articles 1 and 20, is admissible.

The significant features of the provision are :

(1) The difference in the majority requirement in the two Houses.

(2) The scope of amendments to certain matters restricted to the phraseology only for purposes of removing inconsistencies with the Basic Law.

(3) Definition of amendment law as pertaining to alterations or additions to the text of the Basic Law.

(4) Amendments are inadmissible in respect of :

(a) the organisation of the Federation into Laender;

(b) The basic co-operation of the Laender in legislation.

(c) the basic principles underlying the basic or fundamental rights.

and (d) the basic principles underlying the Federation and the Laender.

Greece

According to article 108 of the Constitution of Greece, of 1st January, 1952, total revision of the Constitution, amendments to provisions which relate to the regime as that of a crowned democracy as well as of the fundamental provisions are prohibited. The non-fundamental provisions could, however, be revised whenever Parliament by two-thirds of its total membership call for a revision by a special Act, containing the proposal, and further vote on it twice, with an interval of a month between them. After the proposal for revision has been decided upon by Parliament, the actual provisions to be revised are decided during the first session of the following Parliament by an absolute

majority of the total membership of the House. It is also provided that after adoption, every revision of non-fundamental provisions of the Constitution should be published in the official Gazette within ten days of its passage by Parliament. The amendment is put into effect by a resolution of Parliament.

The noteworthy features of the provision are :

(1) Prohibition of total revision and amendment of fundamental provisions of the Constitution.

(2) The proposal as such for revision of non-fundamental provisions, voted upon twice with an interval of a month between them to ensure the necessity for revision as such.

(3) The actual provisions to be revised is to be decided by a subsequent Parliament.

(4) The difference in the majority requirement at the two stages, namely, the proposal stage and the determination of actual provisions stage.

(5) Publication of the adopted revision in the Official Gazette within ten days of its passage by Parliament.

Guatemala

Article 206 of the Constitution of Guatemala of 11th March 1945, provides that partial reform of the Constitution could be decreed only by the vote of at least two-thirds of the total number of Deputies of the Congress, who would also indicate the purpose of the article or articles that might be amended. On the other hand, total reform of the Constitution or of articles 2, 115 (clause 11), 131, 132, 133, 135, 136 and 206 could be decreed only when decided upon by at least two-thirds of the votes already indicated, but in two distinct and consecutive periods of regular sessions of the Congress. The total reform would, however, not take effect until the amendment is approved by a Constituent Assembly, which in turn would not be summoned till six years had lapsed since the decree of the amendment by the Congress.

It is further provided that in no case could articles 2, 115 (clause 11), 131, 132, 133, 135, 136 and 206 be declared, suspen-

ded or their operation and effectiveness challenged in any manner.

Important features of the provision are :

(1) Total reform of the Constitution or amendment of certain articles subjected to a special procedure of being voted upon twice by the Congress in two distinct and consecutive periods of its regular session.

(2) A further requirement of total reform being passed by a Constituent Assembly which would be convened only after a lapse of six years subsequent to the decree of the amendment by the Congress.

(3) The definition of the term amendment is also provided for in the article.

Republic of Haiti

Amendment of the Constitution of the Republic of Haiti of November 25, 1950 could be effected under the provisions contained in articles 158 to 161 of the Constitution. The initiative in respect of amendments vests with the Legislature on a proposal made by either of the two Chambers or of the Executive and approved by two-thirds of each of the two Chambers during the last regular session of a Legislature. Immediately thereafter the proposal declared has to be published. At the first session of the following Legislature the proposed amendment is to be considered by a joint session of the two Chambers wherein at least two-thirds of each of the two Chambers should be present and adopted by a two-third majority of the votes.

It is provided that any expression of public opinion intended to modify the Constitution by means of a referendum is strictly forbidden.

The significant features of the provisions are :

(1) Provisions contained in four articles.

(2) Amendment proposals could only be made during the last regular session of a Legislature.

(3) Consideration and adoption at the joint session of the two Chambers.

(4) Stipulation of minimum number of attendance of members at the joint session.

(5) Prohibition of amendment of the Constitution through referendum.

Republic of Honduras

According to article 200 of the Constitution of 28th March 1936, any proposal for the amendment of the provisions of the Constitution or the constitutive laws could be made by a Congress in ordinary session, with two-thirds of the votes of its members. But in order to be effective the proposal has to be ratified by the subsequent ordinary legislature by a simple majority.

It is also provided that amendment of articles 117, 118 and 200 and the total reform of the Constitution and the Constitutive laws could only be effected by a Constituent Assembly, convoked for the purpose by the National Congress.

The important features of the provision are :

(1) An amendment proposal, considered and adopted at two successive Legislatures.

(2) Amendment of certain provisions and total reform of the Constitution and the constitutive laws only possible through a Constituent Assembly convoked for the purpose.

(3) A simple procedure.

Republic of Indonesia

Articles 140 and 141 of the Provisional Constitution of the Republic of Indonesia promulgated on 15th August 1950, provided for the amendment of the Constitution. It is required at the outset that every proposal to amend the Constitution should clearly indicate the proposed amendments and announced with a statement of objects and reasons. Thereafter the proposal announced is to be presented by the Government with a Presidential message to a special body meant for the purpose, known as the Council for the Amendment of the Constitution, whose membership is drawn from those members of the Central National Committee, who are not members of the Provisional House of

Representatives, with the Chairman and Deputy Chairman of the Provisional House of Representatives as its Chairman and Deputy Chairman respectively. After the Bill has been passed by the above Council, the Government was expected to ratify and promulgate it. Subsequently, the Government was also expected to publish once more the text of the amended Constitution.

The noteworthy features of the provisions are :

(1) The provision that every Constitutional proposal together with the statement of objects and reasons should first be announced before presentation.

(2) The consideration of the amending Bill by a special body meant for the purpose known as the Council for the Amendment of the Constitution.

(3) Government's obligation to ratify the Bill as passed by the special body.

(4) Publication by the Government of the text of the amended Constitution.

Iraq

Articles 118 and 119 of the Constitution of Iraq of 21st March 1925, contain the amending procedure to be followed for purposes of the amendment of the Constitution of Iraq. It is provided that for a period of five years from the commencement of the Constitution and thereafter also, every amendment of the Constitution must be approved by a two-thirds majority of both the Houses of Parliament (Chamber of Deputies and the Senate). After the approval of the amendment proposal, the Chamber of Deputies is to be dissolved and a new Chamber elected. The amendment proposal is then submitted to the new Chamber and Senate and is passed only if approved by a two-thirds majority of each House. Finally, the amendment as passed is submitted to the King for confirmation and promulgation. It is, however, provided that within one year from the coming into force of the Constitution, Parliament could amend any of the subsidiary matters contained in the Constitution or add to it, in order to clarify the objectives of the various provisions of the Constitution, by two-thirds majority of votes in both Chambers.

The noteworthy features of the provisions are :

(1) The dissolution of the Chamber of Deputies (the Lower House) after the initial approval of the constitutional proposal.

(2) The consideration and passage of a constitutional proposal by a fresh Parliament.

(3) Amendment during the initial period of subsidiary provisions of the Constitution, could be effected by two-thirds majority of Parliament alone, without the need to refer to a subsequent Parliament for purposes of clarification of the objectives of the Constitution.

Ireland

The Constitution of Ireland of 29th December, 1937 could be amended according to the provision contained in article 46 of the Constitution. According to it every proposal for an amendment of the Constitution has got to be initiated in the Dail Erean (the Lower House) as a Bill, which would not contain anything else than the constitutional proposal, and after its passage by both the Houses of the Oireachtas, is submitted for ratification to the people, by referendum. After ratification by the people, through referendum, the President is obliged to sign it forthwith, satisfying himself that the procedural aspect relating to amendment alone is complied with, and promulgate.

The important features of the provision are :

(1) A clause defining as to the meaning of the term amendment.

(2) Reference of a Constitutional Bill to popular decision through a Referendum.

(3) Obligatory nature of the Presidential assent.

(4) A clause requiring that a Constitutional Bill contains only constitutional proposals and nothing else.

Italian Republic

According to article 138 of the Constitution of the Italian Republic of January 1 1948, constitutional proposals for the revision of the Constitution or its various articles are only adopted

if passed by each of the Chambers in two successive deliberations, with an interval of not less than three months, the approval of an absolute majority of the members of each Chamber being required on the second vote. If, however, a law has not been approved by each Chamber by a two-thirds majority of its members on the second vote, it could be submitted to popular referendum, within three months of their publication, if one-fifth of the members of a Chamber or 500,000 votes or five regional councils so request. The provision relating to the Republican form of Government, however, cannot be amended.

The noteworthy features of the provison are :

(1) The need for the consideration of a constitutional proposal in two successive deliberations of the Parliament, with an interval of three months between the two deliberations, to ensure adequate thought being given to the proposal.

(2) The special majority requirement at the second stage.

(3) The provision for referendum in case the special majority requirement was not obtained at the second stage.

(4) The prohibition of amendment of the provision relating to the form of Government.

Japan

Article 96 of the Constitution of Japan of 3rd November 1946, provides for the amending procedure of the Constitution. According to that article the Japanese Diet could initiate amendment proposal if agreed to by a two-thirds vote or more of all the members of each House. Thereafter the proposal is submitted to the people for ratification, either at a special referendum or at such election as the Diet would specify, wherein it is expected to get the affirmative vote of a majority of all votes cast theron. Amendment so ratified was required to be promulgated by the Emperor, immediately, in the name of the people as an integral part of the Constitution.

The significant features of the provision are :

(1) Provision for ratification of an amendment proposal by the people.

(2) The Emperor's obligation to promulgate the ratified amendment.

Jordan

According to Article 126 of the Constitution of the Hashemite Kingdom of Jordan of 1st January 1952, the Constitution could be amended if agreed upon by two-thirds majority of members of both the Senate and the House of Representatives separately. If, however, a proposal for constitutional amendment is considered at a joint session of the two Houses, then it is passed if approved only by a two-thirds majority of the joint assembly. In either case, the amendment would not come into force, unless approved by the king.

It is also provided that no amendment to the Constitution concerning the rights of the king and his heirs could be passed during a period of regency.

Important features of the provision are :

(1) Amendment proposals could be considered and voted upon separately by the two Houses or together at a joint session.

(2) The difference in the majority requirement, between the two alternative methods of amendment.

(3) The amendment to come into force only after the approval of the King.

Republic of Korea

Article 98 of the Constitution of the Republic of Korea of 12th July 1948, provides that a motion to amend the Constitution could be introduced either by the President of the Republic or by one-third or more of the members of the National Assembly duly elected and seated. In whichever case, it is required that the President of the Republic should announce to the public the proposed amendments, at least, thirty days before its introduction. The amendment so proposed could only be passed if approved by more than two-thirds of the members of the National Assembly. When an amendment of the Constitution has been adopted, the President was obliged to promulgate it immediately.

The noteworthy features of the provision are :

(1) President of the Republic could also initiate amendment proposals.

(2) The requirement of public announcement of an amendment proposal, a month before its introduction or initiation.

(3) President's obligation to promulgate the amendment immediately after its passage by the National Assembly.

Kingdom of Laos

The procedure for the revision of the Constitution of the Kingdom of Laos of 11th May, 1947, according to article 43 of the Constitution, is as follows : A proposal for revision in the form of a resolution could emanate from the Council of the King, the Council of Ministers or from an absolute majority of members of the Assembly. The King was then required to convoke a joint session of the National Assembly and the Council of the King in order to examine the proposed revision or amendment, wherein in order to become effective, it was required to be approved by a majority of two thirds of the members of the joint session present and voting. The article also stated tha t the provisions relating to :

(1) the monarchic, unitary and indivisible form of the State ;

(2) the representative character of the regime ; and

(3) the principles of liberty and equality guaranteed under the Constitution ;

could not be subject to any amendment.

The significant features of the provision are :

(1) Three alternative methods for initiating an amendment proposal.

(2) Consideration and passage only at a joint Congress of the National Assembly and the Council of the King.

(3) The association of the Council of the King in the amending process.

(4) The majority requirement at the joint session of the members present and voting only and not of the total membership of the two Bodies.

(5) Certain matters including the fundamental rights guaranteed under the Constitution not being subject to amendment.

Lebanon

Articles 76 and 77 of the Constitution of Lebanon of May 23, 1926 relate to the procedure for the revision of the Constitution. According to it the initiative may vest either with the President of the Republic or with the Chamber of Deputies. If the initiative comes from the President, the Government was to bring before the Assembly a draft of constitutional law. The initiative could be taken by the Assembly in the course of an ordinary session on a proposal to that effect made by at least ten members of the Assembly and approved by a two-thirds of the members of the Assembly. The proposal so approved should be expressed in the form of a resolution. Thereafter, the President of the Chamber is to transmit the resolution to the Government and ask it to prepare a draft of constitutional law. If the Government approves the resolution of the Assembly, it is expected to prepare the draft law relating to it and bring it before the Assembly within a period of four months. If, however, the Government does not agree with the Assembly, it returns the resolution of the Assembly for reconsideration. If then the Assembly maintains its resolution by a three-fourths majority of the members, it is open to the President of the Republic, either to comply with the desire of the Assembly or to issue a decree of dissolution of the Assembly and to proceed with new elections within a period of three months. Finally, however, if the new Assembly insists upon the necessity of the revision, the Government is obliged to acquiesce in the resolution of the Assembly and to introduce the Bill within a period of four months.

The noteworthy features of the provision are :

(1) Initiative in the matter of revision proposals also vests with the President of the Republic.

(2) The need to pass a resolution, on the part of the Assembly, at the first instance emphasising the need for the revision proposal.

(3) Government's approval or disapproval of the resolution.

(4) The procedure to resolve deadlocks in case the Government disapproves of the resolution.

(5) The power vested in the President of the Republic to dissolve the Assembly in case the Assembly maintains its resolution and to constitute a new Assembly.

(6) Acquiescence of the Government finally in case the resolution is maintained by the new Assembly.

(7) The prescription of time-limit for the Government to prepare a draft of constitutional law if it accepted the resolution ; for the President to order the elections of a new Assembly ; and for the introduction of a Bill after the final acceptance of the resolution by the Government.

Libya

Articles 196 to 199 of the Constitution of Libya of October 7, 1951 relate to the review and amendment of the Constitution. According to those provisions, the King or either of the two Chambers could propose the revision of the Constitution either by amendment, by deletion, or by additional provisions. The first stage in respect of the review of the Constitution is the adoption by each of the two Chambers, by an absolute majority of all its members, a resolution stating the necessity for the review and prescribing the subject thereof. Then the resolution is to be discussed in each of the two Chambers of the Legislature, wherein not less than two-thirds of the members are required to be present, and approve by a majority of two-thirds of the members present in each of the two Chambers. Finally, it is adopted only after receiving the sanction of the King. It is also provided that in the case of amendment relating to the provisions concerning the federal form of Government, the proposal has not only to be approved by the two Chambers as above, but also by all the Legislative Councils expressed by a resolution taken in that regard by the Legislative Council of each Province before the review is presented

to the King for his sanction.

Further it is provided that no amendment proposal could be made in respect of provisions relating to :

(a) the monarchical form of Government ;
(b) the order of succession to the throne ;
(c) the representative form of Government ; and
(d) the principles of liberty and equality guaranteed by the Constitution.

The significant features of the provisions are :

(1) The King could also propose constitutional amendments.
(2) The adoption of resolution by the Assembly stating the necessity for the amendment.
(3) The requirement of minimum number of members of the Assembly for discussing the proposal.
(4) The requirement of ultimate sanction by the King of an amendment proposal.
(5) Approval of the Legislative Councils of all Provinces in respect of amendment to the federal form of Government.
(6) Prohibition of amendment of certain matters including the provisions relating to Fundamental Rights of citizens guaranteed under the Constitution.

Luxemburg

According to article 114 of the Constitution of the Grand Duchy of Luxemburg of 17th October, 1868 the Parliament had the right to declare the proposal for constitutional revision. After the declaration, the Chamber was dissolved. In the new Chamber that was convoked and wherein at least three-fourths of its members were present, the proposal was discussed and adopted by two-thirds of the votes.

It was also provided that changes in the Constitution could not be made during a regency.

Important features of the provision are :

(1) Dissolution of Parliament after initiating an amendment proposal.

(2) The consideration and adoption by a new Parliament.

(3) Specification of minimum number required at the consideration stage.

(4) Prohibition of amendment of the Constitution during a regency.

United States of Mexico

The political Constitution of the United States of Mexico of 31st January, 1917 in its article 135 states that the amendment to the Constitution is only possible if agreed to by the Congress by a two-thirds majority of the members present and voting and ratified by a majority of the State Legislatures. It is also provided that the votes of the Legislatures would be counted by the Congress, which would declare that the amendments had been carried.

The main features of the provision are :

(1) The approval of the State Legislatures also required for the adoption of a constitutional amendment.

(2) The counting of votes of the Legislatures by the Congress.

Mongol People's Republic

Article 95 of the Constitution of the Mongol People's Republic of June 30, 1940 precisely provides that the Constitution could only be amended by the decision of the Great People's Khural (Parliament) and adopted by not loss than a two-thirds majority vote.

The noteworthy feature of the provision is :

(1) Simple procedure, precisely stated.

Kingdom of Netherlands

Articles 202 to 206 outline the procedure to be adopted for effecting changes in the Constitution of the Kingdom of Netherlands of 24th August, 1815. It is required at the outset that the Parliament should introduce a Bill proposing an amendment to the Constitution together with a statement of objects and reasons thereof and promulgate it as law after adoption. After

this the Parliament is to be dissolved. The proposal is then to be considered by a new Parliament formed and adopted by a two-thirds of votes in its favour. It is finally promulgated by the King.

It is also provided that changes in the Constitution could be effected by the King or the States-General which, however, are to be promulgated.

Important features of the provision are :

(1) The dissolution of the Parliament after the enactment of a law proposing a constitutional amendment.

(2) The consideration and passage of the constitutional proposal by a new Parliament.

(3) The provision that changes in the Constitution could also be effected by the King and the States-General and that such changes only require promulgation.

(4) The requirement that the King should promulgate the revised Constitution finally.

(5) The amendment spread over five articles.

Republic of Nicaragua

Articles 326 to 328 of the Constitution of the Republic of Nicaragua of 1st November, 1950 provides for, in a detailed fashion, the amending procedure for the Constitution. According to them, the Constitution and the Constitutional Laws could be wholly or partially amended. In regard to partial amendment, the proposal, supported by the signatures of at least ten or more Deputies with a statement of reasons, should be submitted to the Chamber of Deputies in an ordinary session. After being read twice with an interval of three days, the Chamber was to decide, by an absolute majority of votes, whether or not the proposed amendment would be considered. If it was decided to consider the proposal, it was then referred to a Special Committee, consisting of five Representatives, two of whom were to be members of the minority party. The Committee was to submit its report within eight days. The next stage was the discussion of the report and the proposal of the Special Committee in two debates of the Chamber of Deputies, in accordance with regular

rules. If, however, the Chamber in approving or rejecting the report, supported the proposed amendment, it was sent to the Senate which, in acting upon it would follow the same procedure as in the Chamber of Deputies. If the Senate also approved the amendment, it was to write to the Chamber of Deputies to form a Congress of United Chambers. The Congress in its joint assembly was to appoint a Special Committee from among its members, consisting of five Deputies and two Senators, three of whom were to belong to the minority party, to draft the proposed law of amendment, with instruction to do so within a period of eight days The proposed law of amendment had then to be discussed in two debates in the joint assembly and its approval of an absolute majority of votes was required. The Bill thus approved was subsequently to be sent through the Executive Power to the President of the Republic, who was to return it to the Congress when the next legislative session was inaugurated, with an explanation of reasons, either accepting or rejecting it or proposing amendments. If the Bill was accepted by the President then it was sent by the Congress to the Executive Power for publication. If, however, the President rejected or amended the Bill, it was again discussed in two debates by the Congress in their first joint sessions and if again approved by a similar majority, it was sent to the Executive Power for publication.

It is also provided that total amendment of the Constitution could only take place ten years after it had been in force, by a Constituent Assembly, when the National Congress had declared that such amendment was in order, following the procedure as outlined in the case of partial amendments. The National Congress was, however, dissolved after deciding in favour of the amendment.

The significant features of the provisions are :

(1) Procedure very much detailed and rigid.

(2) Proposal initially read twice, with an interval of three days, to determine if the proposal was to be accepted or not.

(3) Reference to a Special Committee of the Chamber for the proposal.

(4) Consideration by the Chamber of the Report and the amendment proposal.

(5) Special Committee of the two Houses to draft an amendment Bill incorporating the proposal.

(6) Joint session of the two Houses to approve the Bill.

(7) Power of approval or disapproval of the President of the Republic.

(8) Procedure in case of disapproval.

(9) The requirement of Publication.

(10) The stipulation of time for various stages through which the proposals and the Bill had to pass through.

(11) Total revision possible only after ten years and that too only through a Constituent Assembly convened for the purpose.

Norway

Amendment to the Constitiution of Norway of 17th May, 1814 could be effected by the manner and procedure indicated in article 112 of that Constitution. According to that article an amendment proposal could be submitted to the first or second ordinary Storthing after a new election and it is required that it shall be published. It could, however, be taken up for consideration only by the first or second ordinary Storthing after the next election and approved only if two-thirds of the Storthing agree to such an alteration. An amendment adopted as above should be signed by the President and the Secretary of the Storthing and sent to the King for public notification in print, as forming an integral part of the Constitution of the Kingdom of Norway.

It is also provided that the amendment proposal should not be inconsistent with the principles of the Constitution, but only restrict itself to such modifications of particular provisions as do not change the spirit of the Constitution.

The noteworthy features of the provision are :

(1) The amendment proposal could only be submitted to the first or second ordinary Storthing after a new election.

(2) It could only be taken up for consideration and adopted after the next election following, allowing thereby sufficient time for thought.

(3) Restrictions on the nature of amendment, namely, that it should not be inconsistent with the principles of the Constitution and that it should not change the spirit of the Constitution.

4) The obligatory nature of the President's signature to the amendment adopted.

Republic of Panama

According to article 256 of the Constitution of the Republic of Panama of 1st March, 1946, the Constitution could be amended in the following manner : First of all the National Assembly has to pass a law in its regular session in respect of the amendment proposal and publish it. The Act containing the proposal has then to be debated and approved in the first regular sessions of a fresh Assembly by an absolute majority of the Deputies composing it.

It is also provided that the Executive could object to the amendment when he receives it for its promulgation after the debate of the second regular assembly.

Important features of the provision are :

(1) The need to promulgate the amendment proposal as an Act.

(2) The initiation by one Chamber and consideration and passage by a subsequent Assembly.

(3) The Executive's power to object to the amendment at the promulgation stage.

Republic of Paraguay

Article 94 of the Constitution of the Republic of Paraguay of July 10, 1940 provided that no total amendment of the Constitution could be made until ten years after its promulgation. Thereafter the need for amendment could be declared by the National Assembly with two-thirds of the votes of its members. However, in respect of the introduction of partial amendment, the need

could be declared by the National Assembly with a two-thirds votes of its members and subsequently submitted to a plebiscite which should coincide with the elections for the renewal of the Presidential term.

The noteworthy features of the provision are :

(1) Total revision prohibited for a period of ten years.

(2) Declaration of the need to introduce partial amendment with the approval of two-thirds votes of the National Assembly members.

(3) Submission of the proposal to a plebiscite for approval.

Republic of Peru

The Constitution of Peru of 9th April, 1933 could be amended under the procedure contained in article 236 of the Constitution. It is provided that an amendment proposal could be initiated by the Deputies and Senators as also by the President of the Republic with the approval of the Council of Ministers. In any case it has to be approved in the ordinary legislature by a majority of votes of the legal number of members of each of the Chambers Further it has to be ratified by both Chambers in another ordinary legislature by the same majority as in the previous case.

Important features of the provision are :

(1) Initiative vests not only with the Legislature but also with the President of the Republic. In either case, however, it has to be approved by the Council of Ministers.

(2) Approval of the proposal by both Chambers in one ordinary legislature and ratification by them in the same manner but in another ordinary legislature.

Philippines

Section I of article XV af the Constitution of Philippines of February 8, 1935 provides that the Congress assembled in a joint session, by a vote of three-fourths of all the members of the Senate and of the House of Representatives voting separately, could propose amendments to the Constitution or call a convention for that purpose. Such amendments become valid as part of the Constitution if approved by a majority of the votes cast at an election at

which the amendments are submitted to the people for their ratification.

The significant features of the provision are :

(1) Amendment proposals could only be made by the Congress at a joint session.

(2) A convention could also be called by the Congress at joint session, for purposes of proposing constitutional amendments.

(3) A high voting requirement of both Houses separately at the joint session.

(4) Requirement of popular approval for validity.

(5) Submission for ratification of the people at the time of an election.

(6) A very difficult and rigid procedure.

Polish People's Republic

Article 91 of the Constitution of the Polish People's Republic of 22nd July, 1952 outlines a simple procedure for amending the Constitution. According to it the Constitution could only be amended by an Act passed by the Seym of the Polish People's Republic at a session, wherein not less than half the total number of Deputies should be present, by a majority of not less than two-thirds of the votes

Important features of the provision are :

(1) A simple procedure.

(2) Specification of the requirement of certain number of members of the Seym for the approval of an amendment proposal.

Portuguese Republic

Articles 176 and 177 of the Constitution of the Portuguese Republic of 1st August, 1935 provide for the revision of the Constitution. According to article 176 the power of constitutional revision vests with the National Assembly and the Constitution could be revised every ten years but that it could also be anticipated by five years if at the beginning of the legislative session of

the last year of the five year term of the National Assembly, it is so decided by two-thirds of the Deputies that the revision proposal would be an item of the mandate at the election, in which case the period of ten years would be counted from the date the law of revision had been voted. It is possible to make a general proposal or draft a Bill at the outset and within the next twenty days others could be added to it. But in any case the proposal or the Bills would not be accepted for consideration unless the amendments were clearly defined. The law of revision requires to be published but as soon as they are so done, the National Assembly has no further power to amend the Constitution However, if it is required to amend the Constitution, urgently, in public interest. article 177 provides that the Head of the State after consulting the Council of State could, by an executive order signed by all the Ministers. get a fresh National Assembly elected for the consideration of the revision proposal or submit to a national plebiscite, the alteration relating to the Legislature or its instruments, in which case the proposal becomes effective with the publication of the results of the plebiscite in the Official Diary (Diario de Governo).

The noteworthy features of the provisions are :

(1) Normally a rigid provision inasmuch as amendments to the Constitution could not be made before ten years from the period of the introduction of a Bill in that regard.

(2) It could, however, be anticipated five years in advance if the amendment proposal is included in the election mandate of the National Assembly.

(3) The provision to make a general revision proposal with possibility of additions to it subsequently, within a stipulated time.

(4) The long period required for giving notice of amendment makes consideration of proposals by an Assembly other than the one which had initiated it.

(5) The law of revision requires to be published in the Official Diary.

(6) Provision for amendment in case of urgency in the interest of the public.

(7) Provision for submission of amendment proposal to National Plebiscite in urgent cases.

(8) Consideration of amendment proposal in urgent cases possible only through a fresh National Assembly.

Rumanian People's Republic

The procedure for amending the Constitution of the Rumanian People's Republic of 24th September, 1952 is contained in article 105 of the Constitution. It says at the outset that the Constitution could be amended only by a law adopted by the Grand National Assembly. A Constitution amendment Bill could only be adopted if not less than two-thirds of the total number of members of the Grand National Assembly of the Republic have voted for it.

The noteworthy features of the provision are :

(1) A simple procedure.

(2) A fairly high majority requirement for the adoption of and amending Bill.

Switzerland

Articles 118 to 123 relate to the revision of the Federal Constitution of the Swiss Confederation of 29th May, 1874. According to them the Federal Constitution could at any time be partially or wholly revised. Regarding total revision of the Federal Constitution, it has been laid down that when either of the two Houses of the Federal Assembly decides in favour of a total revision and the other division does not agree or when 50,000 Swiss demand a total revision, the question, in either case is submitted to the Swiss nation, which votes in the affirmative or negative. If the vote of the Swiss nation is in the affirmative, the two Councils are to be renewed for the purpose of undertaking the revision. Total revision could also be effected in the forms laid down in respect of federal legislation.

In respect of a partial revision, article 121 lays down that it could be effected either by means of a popular initiative or in the form laid down in respect of federal legislation. Popular initiative

could be done if 50,000 Swiss voters demand for the adoption of a new constitutional article or for the repeal or modification of certain articles of the Constitution already in force. If several articles are sought to be revised by an initiative, each of them was to be treated as the subject of a separate initiative demand. It is provided that an initiative demand could be of a general nature or in the form of a Bill in all details. If the demand was couched in general terms, the Federal Chamber, on approval was to proceed to undertaking the partial revision in the sense indicated by submitting the draft proposal to the people and the Cantons for acceptance or rejection. If, on the contrary, the Federal Chamber did not approve the demand, the question was to be submitted to the vote of the people and if a majority of the Swiss citizens voted in the affirmative, the Federal Assembly was to proceed to undertaking the revision in conformity with the popular decision. If, however, a demand was presented in the form of a Bill complete in all details and the Federal Assembly approved thereof, the Bill was to be submitted for acceptance or rejection by the people and the Cantons. If, on the contrary, the Federal Assembly was not in agreement, it could draw up a separate Bill or recommend to the people the rejection of the Bill proposed and submit to the vote its counter-draft or its proposal for rejection at the same time as the Bill was presented by popular initiative.

It was also provided by article 122 that the formalities to be observed in regard to popular initiative and to referenda concerning the revision of the Federal Constitution was to be determined by federal legislature. It was further provided that the revised federal Constitution, or the revised part thereof would come into force only when that had been accepted by a majority of the Swiss citizens taking part in the vote thereon and by the majority of the States.

The significant features of the provisions are :

(1) Six articles are devoted for the purpose.

(2) Initiative in the matter of partial or total revision also vests with the people.

(3) Total or partial revision could also be effected in the forms laid down in respect of federal legislation.

(4) Total or partial revision would not be valid unless referred to and ratified by the people.

(5) Details laid down in respect of the procedures to be followed in dealing with different forms of initiative.

(6) Provision for resolving deadlocks.

(7) Ultimate authority vested with the people or with the Cantons in respect of Constitutional amendments.

(8) Detailed provision and the rigidity thereof.

Syria

Under article 155 of the Constitution of Syria of 5th September, 1950 it is possible for the President of the Republic with the assent of the Council of Ministers or one-third or more of the total number of Deputies with their signatures and with the statement of objects and reasons thereof, to request the amendment of one or more articles of the Constitution. The Chamber (Legislature) was then to discuss the request for amendment and if approved by an absolute majority of the total number of Deputies, the motion was considered as a motion for amendment. If, however, the Chamber rejected the request, that decision was final and the request to amend the same articles could not be presented again within one year. Six months after the adoption of a motion of amendment, the Chamber of Deputies could discuss the amendment proposed and the same would be adopted and become effective if two-thirds of the total number of Deputies vote for it. It was also provided, under the same article, that the Deputies should take new oath of allegiance to the amended Constitution within two weeks of its adoption.

Important features of the provision are :

(1) Both the President of the Republic and a specific number of Deputies could make a request for amendment.

(2) Rejection of the request by the Chamber is final and the request could not be repeated before the expiry of one year.

(3) The stipulation of time before which a motion of amendment could not be discussed.

(4) Requirement of oath of allegiance, by the Deputies to

the amended Constitution within two weeks of its adoption.

Tanganyika

According to article 35 of the Constitution, of Tanganyika of 23rd November, 1962 Parliament is empowered to alter any provision of the Constitution in its legislative capacity and adopting the procedure for ordinary legislation if it could secure for such a proposal a two-thirds votes of the members of the National Assembly at least in two stages through which the amendment Bill passes in the National Assembly.

Noteworthy features are :

(1) A simple procedure.

(2) A clear statement that any provision of the Constitution could be amended according to the provision meant for it.

(3) The need to get a two-thirds majority in not less than two of the three stages through which the Bill passes.

(4) An exclusive clause, clause (2), is devoted to defining the meaning of 'alteration' for purposes of article 35. Alteration could be in the shape of amendment, modification or re-enactment, with or without amendment or modification, suspension or repeal of that provision.

Thailand

The procedure for the amendment of the Constitution of the Thai Kingdom of 3rd August, 1952 is laid down in section 111 of the Constitution. According to that a motion for introduction could be introduced either by the Council of Ministers or by one-fourth of the total number of members of the Assembly of the Peoples' Representatives. The Assembly was then to examine the motion for amendment in three readings. At the first reading, wherein merely the acceptance of the amendment in principle was to be had, voting was done by roll-call and carried by a majority of not less than two-thirds of the total membership. At the second reading where the amendment was to be examined section by section, the voting was decided by a simple majority. Fifteen

days after the second reading, the Assembly was to continue with its third reading wherein the voting was to be by roll call and the amendment was adopted only if two-thirds of the total membership of the House, voted for it. Thereafter the amendment was sent to the King for purposes of promulgation.

The significant features of the provision are :

(1) Either the Council of Ministers or one-fourth of the total membership of the Assembly could initiate amendment proposals.

(2) The spelling out of the specific function of the Assembly in the three readings through which the Bill had to be processed.

(3) The time interval between the second and the third reading to enable further thought being given before the passage of the Bill.

(4) The variations in the majority requirement at the three different stages of reading.

(5) Submission to the King and the procedure to be followed by him

Turkey

Article 102 of the Turkish Constitution of 10th January, 1945 provides that an amendment to the Constitution could be made if a motion to that effect is made with the signatures of at least one-third of the entire membership of the Assembly and supported by a two-thirds of the total membership of the Assembly. It is also provided that no amendment, under any circumstances or any form, could be proposed in respect of article 1 relating to the Republican form of Government.

Important features of the provision are :

(1) Simple procedure.

(2) The requirement of a fairly high percentage of members of the Assembly at the proposal stage.

(3) Prohibition of amendment proposal in respect of the form of Government.

Ukranian Soviet Socialist Republic

According to article 127 of the Constitution of 30th January 1937, the decision in respect of constitutional amendment could only be made by the Supreme Soviet of the Ukranian Soviet Socialist Republic when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

The noteworthy feature of the provision is :

(1) Simple procedure very precisely stated.

Union of South Africa

The Constitution of the Union of South Africa of 20th September, 1909 could be amended according to the provision contained in article 152 of the Constitution. According to that article, any provision of the Constitution, a few mentioned below being exempted, could be amended by Parliament, through the process of ordinary law. No provision, for the operation of which a definite period of time is prescribed, could be altered or amended during that period. Further, amendment proposals relating to the following :

(1) Section 152, about the amending procedure ;
(2) Section 33, about the number of members of the House of Assembly reaching the prescribed limit ;
(3) Section 34, about a ten-year period elapsing after the establishment of the Union in respect of the provision contained in Section 33 ;
(4) Section 35, about the qualifications of voters; and
(5) Section 137, about the equality of status accorded to the English and Dutch languages;

would be valid only if the Bill embodying such alterations was passed by both Houses of Parliament sitting together and at the third reading was agreed to by not less than two-thirds of the total membership of both Houses. In the last mentioned case, a Bill passed at the joint sitting was considered to be only passed by both Houses of Parliament.

The significant features of the provision are :

(1) A simple procedure by which Parliament could amend most of the provisions of the Constitution.

(2) Partial disability to amend provisions which have a definite period of time.

(3) Special procedure for consideration of amendment proposals relating to certain matters, at joint sessions of Parliament and the special majority required thereof for adoption.

(4) The inclusion of the Section relating to the amending procedure in the special category of alteration method similar to the Indian Constitution with procedural differences.

(5) The division of provisions of the Constitution into three categories like the Indian Constitution although with variations in the items included in the third category and procedure thereof etc.

United Kingdom

The British Constitution can be modified legally by mere Act of Parliament. In other words, no Act of Parliament is ever void because it is unconstitutional. This legal omnipotence of Parliament is nevertheless checked not only by a traditional respect for the liberties of the King's subjects but in a more practical way by a relatively recent convention. In the opinion of most observers, a British Parliament is obligated to go to the country for a fresh mandate whenever a major measure involving fundamentals is on for vote. In effect, the amendment of the British Constitution, although entrusted to Parliament, is decided upon after popular referendum.

Republic of South Africa

Section 118 of the Act to Constitute the Republic of South Africa, as amended to 24th April, 1961 provides that Parliament might by law repeal or alter any of provisions of the Act, provided that no repeal or alteration of the provisions contained in Section 118 itself or in Section 108 relating to equality of official languages would be valid unless that was passed by the Senate and the House of Assembly sitting together, and at the third reading was agreed to by not less than two-thirds of the total number of members of the Senate and the House of Assembly. A

Bill passed at the joint sitting was considered to have been duly passed by the Senate and by the House of Assembly.

The noteworthy features of the provision are :

(1) Parliament's power to alter any of the provisions of the Act, barring two matters only, in a simple manner as it would in the case of ordinary legislation.

(2) Special procedure for two matters only through joint sitting of the two Houses.

Union of Soviet Socialist Republics

The procedure for amending the Constitution of the Union of Soviet Socialist Republics of 5th December, 1936, according to article 146, is that the decision to that effect should be taken by the Supreme Soviet of the U.S.S.R. and adopted by a majority of not less than two-thirds of the vote in each of its Chambers.

The significant feature of the provision is that the procedure is simple and that it is precisely stated. However, it has been common for the Presidium to issue decrees that affect the Constitution, while the Supreme Soviet is not in session. Thus new territory was added during the war, an age-limit of 23 was set for representatives in the Supreme Soviet itself, changes were made in the franchise—all by action of the Presidium. Though the Supreme Soviet is charged with the obligation of making constitutional changes legal, the Presidium continues to initiate them and put them in force by a simple decree.

United States of America

Article V of the Constitution of the United States of America of 17th September 1787, outlines the procedure in respect of constitutional amendments. According to it amendment proposals could be initiated either by the Congress, whenever two-thirds of the members of both Houses so desire, or by a Convention called by the Congress on the application of the Legislatures of two-thirds of the States. In either case the proposal has to be ratified either by the legislatures of three-fourths of the States or by three-fourths of the members of the Convention assembled for the purpose.

It is also provided that no amendment seeking to deprive the State of its equal suffrage in the Senate was to be admitted.

Further it is provided that no amendment made prior to 1808 was to affect the first and fourth clauses in the Ninth Section of the First Article. (This part of the article is no longer necessary as the condition stipulated therein relates to the pre-1808 periods. So much so every provision, excepting the one relating to equal representation of States in the Senate could be amended according to the procedure contained in the above article.

The noteworthy features of the provision are :

(1) Provision for enabling legislatures of the States for initiating constitutional proposals.

(2) Constitutional amendments possible through conventions called for the purpose.

(3) Requirement of ratification by the legislatures of the States.

(4) Provision for ratification through Conventions.

(5) Rigid method and procedure for effecting constitutional changes.

(6) Requirement of high initiation and approval percentage of members or State Legislatures at the various stages.

(7) Alteration of equal representation of States in the Senate subject to the affected State's approval.

Sweden

Article 81 of the Constitution of the Kingdom of Sweden of 6th June 1809 states at the outset that the Constitution and the other fundamental laws would not be altered or repealed except by the decision of the King and of two regular sessions of the Rikstag. Proposal for constitutional amendment could be made either by the King or by the Rikstag. A proposal made by the King is sent to the Rikstag which considering it as prescribed by the Rikstag Law communicates its decision to the King. If on the other hand a proposal emanates from the Rikstag, and is approved by it in the manner prescribed by the Rikstag Law, the decision thereon is submitted to the King, who before the adjournment of the Rikstag would inform the Rikstag of his consent or of

his reasons for not approving its resolutions. The King was expected to take the advice of the Council of State in full session in that regard.

Article 82 further adds that the amendments to the fundamental laws adopted by the Rikstag and approved by the King or proposed by the King and adopted by the Rikstag, in the prescribed manner, would have force as Fundamental Laws.

Important features of the provision are :

(1) Amendments can only be adopted on the approval of both the King and of two regular sessions of the Rikstag.

(2) King's power to initiate amendment proposals.

(3) King to abide by the advice of the Council of State in respect of his decision on the amendment proposal to be conveyed to the Rikstag.

Honduras

Article 200 of the Political Constitution of the Republic of Honduras of March 2[illegible], 1936 relates to the reform of the Constitution. According to it, the Constitution and the Constitutive Laws could be reformed partially, if approved by the Congress in ordinary session with two-thirds of the votes of its members and ratified by the following ordinary legislature by two-thirds of the votes of its members. However, in regard to matters contained in :

(1) Article 117, relating to the Presidential term of office ;

(2) Article 118, relating to the disabilities to the offices of the President ; and

(3) Article 200, relating to the reform of the Constitution , and in the case of total reform of the Constitution and the Constitutive Laws, reform could only be effected by Constitutional Asesmbly, convoked for the purpose by the National Congress.

The distinctive features of the provision are :

(1) Simple procedure for partial amendment.

(2) Reference to the Constituent Assembly in case of certain matters and total reform.

(3) Provision relating to the amendment of the amending provision to be referred to the Constituent Assembly.

Iran

The amendment procedure of the Iranian Constitution is contained in the Suplementary Article to the Amendment of May 7, 1949. According to that, the Majlis and the Senate, either independently or upon the suggestion of the Government, by a vote of not less than two- thirds of all the Deputies and Senators approve the necessity to reconsider one or more articles of the Constitution or an amendment thereof and when that view was confirmed by His Imperial Majesty, then a Royal Decree for the establishment of a Constituent Assembly and for election of such an Assembly was issued. The strength of the Constituent Assembly was to be the same as the total number of both representatives and senators, and the members were to be elected on the basis of the procedure laid down by both Houses. The amendment proposed was to be considered by the Constituent Assembly and decision arrived at by the vote of not less than two-thirds of the total number of the Deputies. The amendment would come into force on confirmation by His Imperial Majesty.

It was, however, provided that the amendment procedure, as outlined above, would not be applicable to matters concerning the Sacred Religion of Islam and the Official Religion of the country, namely, the righteous schism of the Douodecimist Ja' farites and Commandments thereof ; the provisions relating to the Constitutional Monarchy of Iran, viz. articles 4, 5, 6 and 7 (the number of Deputies for Teheran and the Provinces ; Tenure of office of Deputies ; discussions and debates ; and puorum and other matters) ; the comments on articles 7 and 8 (the latter relating to the duration of the Assembly) ; and article 2 of the Amendment thereof. In respect of the qroposals of the above, the Majlis and the Senate, at a joint session of both Houses presided over by the President of the Senate, would consider them and adopt or make any necessary amendments by a vote not less than two-thirds of all the Representatives and Senators. Any amendments so agreed to would be enforceable upon confirmation of and signature of His Imperial Majesty.

The noteworthy features of the provision are :

(1) A rigid and difficult method.

(2) High percentage requirement to make proposals for amendment i.e. two-thirds of all the Deputies and Senators.

(3) Consideration of the amendment proposal by a Constituent Assembly.

(4) Amendments enforceable only upon confirmation by His Imperial Majesty.

(5) Special procedure for certain matters—Joint session of both the Houses.

(6) Joint session to be presided over by the President of the Senate.

Liberia

According to Section 17 of Article 5 of the Constitution of the Republic of Liberia of July 26, 1847, the Constitution could be altered whenever two-thirds of both the Houses of the legislature considered it necessary. In that case alterations or amendments was first to be considered and approved by the legislatures of two-thirds of the members of each House and thereafter submitted to the people at the next quadrennial meeting for the election of Senators and Representatives, wherein it was required to be adopted by two-thirds of all electors.

Important features of the provision are :

(1) Amendment only possible when two-thirds of both branches of the legislature considered it necessary.

(2) Submission to popular opinion of proposals approved by the legislatures at the time of election to the legislatures.

Iceland

Article 79 of the Constitution of the Republic of Iceland of 17th June 1944, provides that amendment or supplementary to the Constitution could be introduced at regular as well as extra-ordinary sessions of the Althing (Parliament). If the proposal

was passed by both the Houses, the Althing was dissolved immediately and a general election was held. If in the new Althing both the Houses passed the proposal without amendments then it was to be ratified by the President of the Republic, so that it could come into force as a Constitutional Act.

It was also provided that if the Althing passed an amendment effecting the status of the Church affairs, according to article 62 (that the Evangelical-Lutheran church shall be the state church and as such it shall be supported and protected by the State), it had to be submitted to a plebiscite by secret ballot for acceptance or rejection.

The significant features of the provision are :

(1) Dissolution of the Parliament after the approval of the amendment proposal.

(2) Consideration and passage by a new Parliament.

(3) Simple majority requirement at the two stages.

(4) Obligatory nature of the Presidential assent.

(5) Special procedure in respect of amendment of article 62 relating to the status of the Church affairs.

(6) Submission to popular approval by secret vote in case of amendment to article 62.

Republic of Viet Nam

According to Article 112 of the Constitution of the Democratic Republic of Viet Nam of 1960, only the National Assembly has power to revise the Constitution. Amendments to the Constitution require a two-thirds majority vote of all Deputies to the National Assembly.

A simple procedure for amending the Constitution.

Argentine Republic

According to article 21 of the Constitution of the Argentine Republic of March 16, 1949, the Constitution could be amended entirely or in any of its parts. It was required, at the first instance, for Congress to declare the necessity for a reform with the vote of two-thirds of its members present. But it was not to be effected except by a Convention called for the purpose.

It was also provided that a special law should establish the punishment for those who in any way advocated or propagated methods or systems proposing the use of violence to suppress or change the Constitution or any of its basic principles and those who organised, established, directed or belonged to an association or entity which had as its visible or concealed purpose the accomplishment of such ends.

The significant features of the provision are :

(1) The declaration by Congress of the necessity for reform.

(2) Amendment could not be effected except by a convention called for the purpose.

(3) Amending provision provided for in the first part of the Constitutional document under the heading 'Fundamental Principles.'

(4) Also provided in the article that a special law to punish violations in any form would be established.

Egypt

Articles 156 to 158 of the Constitution of Egypt of 30th April 1923, provided for the revision of the Constitution. The King as also the two Chambers could propose the revision of the Constitution, either by the modification or abolition of one or several of the articles or by the addition of new ones. In any case, it was necessary for each of the Chambers to declare the necessity for the revision which should also include its objectives, by a resolution passed by an absolute majority of all the members. The resolution was then to be sanctioned by the King, after which the two Chambers in agreement with him had to pass enactments on the points to be revised. Finally the resolutions were to be passed by a majority of two-thirds of the votes in each of the two Chambers and that they could do so only if two-thirds of the members were present.

It was also provided that certain matters on the Constitution must not be made the subject of a proposal for revision, namely :

(1) the stipulation relating to the representative and parliamentary form ;

(2) to the order of succession to the throne ; and

(3) to the principles of liberty and equality guaranteed by the Constitution.

Further, it was provided that no revision of the Constitution on the subject of the rights of the Crown should take place during a regency.

Important features of the provisions are :

(1) The King could also initiate amendment proposals.

(2) Legislature to pass resolution declaring the necessity for revision.

(3) The need for the King's sanction of the resolution.

(4) The Chambers to pass enactments on the points suggested by the King.

(5) The Chambers to vote on the resolutions as approved.

(6) Stipulation of the minimum number to be present for voting.

(7) Prohibition of certain matters, including the Fundamental Rights, from being subjected to enactment.

(8) No revision of the Constitution on the subject of the rights of the Crown to take place during a regency.

Federation of Malaya

Article 159 of Part XII of the Constitution of the Federation of Malaya of 31st August, 1957 related to the amendment procedure of the Constitution. Barring certain matters, a Bill for making an amendment to the Constitution had to be passed in each House of Parliament by not less than two-thirds of the total number of members on second and third readings. It was, however, provided that the following matters could not be amended, namely :

(1) (a) Supplementary provisions relating to citizenship contained in the Second Schedule :

(b) Oath of office of allegiance, secrecy etc., contained in the Sixth Schedule ; and

(c) Election, appointment and retirement of Senators contained in the Seventh Schedule.

(2) Parliamentary power to make law conferred on Parlia-

ment by any provision of the Constitution, either incidental to or consequential on, other than the subject matter of Federal and State laws (i.e.) the State Lists, contained in article 74 and power of Parliament to legislate for State in certain cases, contained in article 76.

(3) The repeal of a law made under the provision made for the transitional period or under the three Schedules mentioned above.

It is also provided that the following matters cannot be amended except with the consent of the conference of Rulers :

(1) Conference of Rulers, contained in article 38 ;

(2) Precedence of Rulers and Governors, contained in article 70 ;

3) Federal Guarantee of State Constitutions, contained in article 71 (1) : and

(4) Reservation of quotas in respect of service, permits, etc., for Malays, contained in article 153.

A further provision prohibits amendments before Parliament was duly constituted, but to remove difficulties during the transition period, empowers the legislative council to make amendments for a period of twelve months. The power was to expire with the first meeting of Parliament when duly constituted.

The significant features of the provision are :

(1) Removal of difficulties' clause during the transitional period.

(2) Certain matters could not be amended.

(3) Certain matters to be amended subject to the consent of Conference of Rulers.

(4) A clause defining the scope of amendment under the Constitution.

Republic of Pakistan

Articles 208 to 210 of the Constitution of Pakistan of 1st March 1962, relate to the amending procedure of the Constitution. According to those provisions a Bill to amend the Constitution has to be passed by the votes of not less than two-thirds o the

total number of members of the National Assembly before it could be presented to the President for assent. Within thirty days after a Bill was presented to the President, he could either give assent to it ; or declare that he had withheld assent from the Bill ; or return the Bill to the National Assembly with a message requesting that the Bill, or a particular provision of the Bill, be reconsidered and that any amendments specified in the message be reconsidered. But if he failed to do any of those things within the period, he was considered to have assented to the Bill at the expiration of that period. If the President declared that he withheld assent from the Bill, the National Assembly was competent to reconsider the Bill and if it again passed (with or without amendment) by the votes of not less than three-fourths of the total number of members of the Assembly, the Bill was again presented to the President for assent. If, however, the President returned the Bill to the National Assembly, the Assembly was to reconsider the Bill and if it again passed the Bill without amendment or with the amendments specified by the President in his message or with amendments which the President had subsequently informed the Speaker of the Assembly were accepted by him, by the votes of not less than two-thirds of the total number of members of the Assembly ; or the Bill was again passed by the Assembly with amendments of the kind not referred to above, by the votes of not less than three-fourths of the total number of members of the Assembly, the Bill was again presented to the President for assent. With the Bill thus again presented to the President for assent, he within ten days had either to assent to the Bill or to cause it to be referred to a referendum, in the form of a question that was capable of being answered either by 'yes' or 'no' (as provided for under article 24 of the Constitution), the question whether the Bill should or should not be assented to. If, however, within the period of ten days, the President failed to do either of those things and the Assembly was not dissolved, the President was deemed to have assented to the Bill at the expiration of that period. If, at the referendum, a majority of the total number of members of the Electoral College were cast in favour of the Bill being assented to, then it was considered that the President had assented to the Bill on the day on which the result of the referendum was declared.

It was also provided that an amendment seeking to alter the limits of a Province would not be passed by the National Assembly unless it had been approved by a resolution of the Assembly of the Province, passed by the votes of not less than two-thirds of the total number of that Assembly.

The significant features of the provisions are :

(1) The importance given to the Presidential assent to constitution amendment Bills.

(2) The procedure to be followed in the case of amendment Bills presented to the President, which incidentally is the same as for ordinary legislation.

(3) Stipulation of time limit to Presidential action on the amendment Bill.

(4) Provision for referring the Bill to popular referendum in case of a deadlock.

(5) The high majority requirement to pass the Bill again in case the Bill was returned to the Assembly.

(6) Provision to consult and obtain the assent of the Province while limit was to be altered.

Kingdom of Nepal

Article 53 of the Constitution of the Kingdom of Nepal provides that Parliament could amend or repeal any of the provisions of the Constitution by a Bill passed by both Houses of Parliament and assented to by His Majesty. A Bill to amend the constitution was to contain no other provision else than those relating to the amendment and it was considered to have been passed by the House of Representatives and the Senate if it was supported on its final reading in each House by not less than two-thirds of all the members thereof.

It was then provided that when the Bill, after its passage by the two Houses was to be presented for the Royal assent, it had to be endorsed by the Speaker of the House of Representatives and the President of the Senate that the provisions of the amending clause had been complied with and that such a certificate was conclusive for all purposes and would not be questioned in any Court.

Important features of the provision are :

(1) Endorsement by the Presiding officers of the two Houses required before an amendment Bill could be presented to the King.

(2) Certificate endorsed by the Presiding officers not to be questioned in any Court.

(3) Stipulation that a Bill to amend the Constitution should contain no other provision else than those relating to the amendment.

Uruguay

Article 331 of the Constitution of the Oriental Republic of Uruguay of 26th October, 1951 provides for, in a detailed manner, the amending procedure for the Constitution. According to it the Constitution could be amended in either of the following four ways, namely—(1) on the initiative of ten per cent of the citizens inscribed in the National Civil Register, by presenting a detailed proposal, which would be referred to the President of the General Assembly, to be submitted for popular decision at the next election. If it so desires, the General Assembly, meeting in joint session, could make substitute proposals, in which case both the popular initiative and the substitute proposals have to be submitted to plebiscitary decision.

(2) On the initiative of the General Assembly, with the approval of two-fifths of its membership, which would again be referred to as in (i). For an affirmative result in respect of (1) and (2) it was to be a 'yes' vote of an absolute majority of the citizens participating in the elections and that majority should represent at least thirty-five per cent of all persons inscribed in the National Civil Register.

(3) On the initiative of the Senators, Representatives and the Executive Power, approved by an absolute majority of the full membership of the General Assembly. In case the proposal was rejected it could only be renewed in the following legislative period. On the approval and promulgation of the proposal by the President of the General Assembly, the Executive Power, within ninety days thereafter, was to call for the election of a

National Constituent Convention, consisting of double the number of legislators and twice as many alternates, to consider and decide upon approved proposals for amendment as well as upon any other proposals that might be presented to the Convention. The Convention was to meet within one year from the date of promulgation of the proposal of amendment and terminate its tasks within one year from the date of its commencement. Decisions at the Convention was to be taken by an absolute majority of the whole number of members of the Convention and the proposal or proposals drawn up by the Convention was or were to be communicated to the Executive Power for immediate and full publication The proposal or proposals drawn up by the Convention had to be ratified by the electorate convoked for the purpose. Voting was to be by 'yes' or 'no' for each item and each has to be approved by a majority of votes, which should not be less than thirty-five per cent of the citizens inscribed in the National Civil Register.

(4) The Constitution could also be amended by constitutional laws which would require for their sanction two-thirds of the full membership of each Chamber in the same legislative period. They have to be submitted to the electorate specially convoked for the purpose, who would have to express their approval by an absolute majority of the votes cast. They were not to be voted by the Executive Power. On popular ratification, they were to be promulgated by the President of the General Assembly.

It is also provided that in respect of proposals to be submitted for ratification by plebiscite, in the case of (1) and (2), only those that had been made at least six months before the date of such elections, or in the first of those cases, three months before, for substitute proposals approved by the General Assembly, could be done. Proposals presented after that period were to be submitted at the subsequent elections.

It is also further provided, that if the Convocation of the electorate for ratification of amendments under (1) and (4) coincided with any election of members of the organs of the State, the citizens had to express their will on the amendments on ballots separate and apart from election lists.

Still further, the article provides that whenever the amendments submitted to plebiscite related to election to elective offices, the voting for such offices was to be both by the system proposed and by the existing system and that the decision of the plebiscite was to be final.

The significant features of the provision are :

(1) Four alternative methods for initiating amendment proposals.

(2) Reference to electorate in all the four cases and ratification by them was essential.

(3) Reference to National Constituent Convention of proposals initiated by the legislative and executive powers and details thereof.

(4) Stipulation with regard to the percentage of the total population requirement apart from majority vote requirement at electoral convocations.

(5) A detailed procedure and rigid requirement.

(6) Stipulation of time-limit in every stage of the passage of amendment Bills.

Venezuela

Articles 140 to 142 of the Constitution of Venezuela of 11th April, 1953 relate to the amendment procedure of the Constitution. Either of the two Legislative Chambers or the Legislative Assemblies of the Units could initiate amendment proposals. When the initiative originates in one of the Legislative Chambers, the amendment must be proposed by at least one-fourth of its total membership. Then it was to be discussed in the two Legislative Chambers according to the procedure established in the Constitution for the enactment of laws. Thereafter, the President of the National Congress was to submit the amendment to the Legislative Assemblies for ratification, which would be considered valid when it was approved by at least two-thirds of the Legislative Assemblies by an absolute majority of vote of the members of each legislative assembly. The approval of the Legislative Assemblies was then transmitted to the National Congress for final scrutiny and if it was satisfied that the amendment had been

duly ratified by the Legislative Assemblies, the amendment was taken as adopted. The amendment, however, would become effective only after its publication in the Official Gazette of the Republic of Venezuela. If, however, initiative originated in any of the Legislative Assemblies, then it was required to be approved, at the first instance, if the amendment was a desirable one, by two-thirds of the Assemblies, by means of resolutions adopted in each Assembly by an absolute majority of the total membership. The proposal and the resolutions thereof were then transmitted to the Congress, which after scrutiny had to declare that the amendment was duly presented. When declared duly presented, the amendment was then to be considered according to the procedure provided as above.

The significant features of the provisions are :

(1) Legislative Assemblies of the Units could also initiate amendment proposals.

(2) Ratification requirement by Legislative Assemblies of amendment proposals emanating from the Legislative Chambers.

(3) Legislative Assemblies' communication of approval of amendment proposals by resolutions.

(4) Publication in the Official Gazette for enforcement.

Yugoslavia

Article 23 of the Constitution of the Peoples' Republic of Yugoslavia of 13th January, 1953 provides for the amendment of the Constitution. According to it a proposal to amend the Constitution could be submitted by not less than twenty members of the House, the Council of Nationalities as well as by the Federal Executive Council. Thereafter, the Assembly decides in each Council by a majority of votes whether a proposal to amend the Constitution would be considered. The amendment is then adopted if three-fifths of the members of each Council vote in favour of it.

Important features of the provision are :

(1) The prior decision in each Council by a majority vote if the amendment proposal was to be accepted or not.

(2) The requirement of the approval of three-fifths of members of each Council for adoption.

Federal Republic of Yugoslavia

Articles 210 to 214 of the Constitution of the Socialist Federal Republic of Yugoslavia relate to the procedure for changing the Constitution. According to those articles, a motion to change the Constitution could be introduced either by thirty members of the Federal Assembly, or by the Chamber of Nationalities or by the President of the Republic, or by the Federal Executive Council. Whatever be the course of initiative, the Federal Chamber and the Chamber of Nationalities had first to resolve whether or not deliberations on a change of Constitution should be commenced. If after two consecutive debates the Federal Chamber and the Chamber of Nationalities did not reach unanimity to commence deliberation on a change of Constitution, a motion to change the Constitution was not to be introduced before the lapse of one year from the date on which the debate was closed. However, after the two Houses had agreed to commence deliberations, before the debate was held on a motion to change the Constitution, the Federal Chamber was to forward the motion to the Economic Chamber, the Chamber of Education and Culture, the Chamber of Social Welfare and Health and the Organisational Political Chamber, which had to consider the motion and give their opinions to the Federal Chamber. The debate was to commence on receipt of the opinions of the Chambers mentioned. First of all the motion was to be debated by the Chamber of Nationalities and then by the Federal Chamber, the latter forming an opinion on the views held by other assembly chambers, during the debate. The motion to change the Constitution was considered to have been passed if an identical text had been passed by both the Houses If, however, the Federal Chamber did not accept the opinion of the Chamber of Nationalities concerning the motion to change the Constitution, the debate was to be postponed for two months. Upon the lapse of that period, only two consecutive debates were to be held on the matters in dispute between the two Houses and if after that no unanimity was reached, they could decide to place the matter in dispute be-

fore a referendum. If, however, they did not agree to place the matter in dispute before a referendum, the Federal Chamber was to be dissolved. The motion to change the Constitution was considered to have been passed in both the Houses if it received the vote of two-thirds of the members of the two Houses.

It was also provided that fifteen days after the adoption of the motion to change the Constitution by the two Houses, if at least three of the other Chambers of the Assembly did not agree to the accepted text of the motion, then the motion was to be placed before a referendum which was to be called by the President of the Assembly and to be held not later than two months from the date on which the motion to change the Constitution had been passed in the Federal Chamber and the Chamber of Nationalities. The motion to change the Constitution was considered to have been passed by referendum if a majority of the electorate on the territory of Yugoslavia had voted for the motion.

It was further provided that the motion to change the Constitution was to be proclaimed by the Federal Chamber.

The significant features of the provisions are :

(1) Initiative could vest apart from the two Houses, with the President of the Republic and the Federal Executive Council.

(2) Provision to resolve deadlock in case the two Houses did not agree.

(3) Provision for referendum in case of disagreement.

(4) Approval of and the need to consult certain bodies before discussion on a motion to change the Constitution.

(5) Unanimity required between the two Houses to commence deliberations on a change of Constitution.

(6) Stipulation of time-limit for various purposes and at various stages.

(7) A rigid and difficult procedure.

Ceylon

Section 4 of article 29 of the Ceylon (Constitution) Order in

Council, 1946 provides for the amendment or alteration of the Constitution of Ceylon. According to this provision the Parliament of Ceylon is vested with the power to amend or repeal any of the provisions contained in the above Order, or for the matter of that any other Order of His Majesty in Council in its application to the Island. But no such Bill for the amendment or repeal of any of the provisions of the above Order could be presented for the Royal assent unless it had endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the total number of membership of the House (inclusive of those not present).

Important features :

(1) The provision with regard to the amendment is not contained in a separate part or even an article.

(2) Parliament is empowered to amend the Constitution in the exercise of its legislative powers and adopting the ordinary legislative process. It has merely to state that it is amending or repealing the provision in question and has to secure two-thirds vote of the total membership of the House of Representatives.

(3) Endorsement by the Speaker that the requisite majority had been obtained for the Constitution Amendment Bill is essential before the Bill is presented for the Royal assent. The courts of law cannot question whether or not a Constitution Amendment Bill has received the requisite majority once the Speaker has certified to the effect that the Bill has received the requisite majority.

(4) The Fundamental Rights guaranteed and which cannot be abridged or taken away by the Parliament in its legislative capacity can be abridged or taken away in its capacity to amend or repeal the Constitution.

Now, having described the amending processes in various countries of the world, it now requires to briefly describe the various types of amending processes found in the different American State Constitutions. This is necessary for two reasons. Firstly, the State Constitutions in the U.S.A. were the first to

introduce an amending process so far as written constitutions go. Secondly, they provided an experimental ground for trying out various alternative methods in the process of amendment. Walter F. Dodd, a great authority, particularly on the amending process of the American State Constitutions, has found six distinct types of procedures adopted in the State Constitutions of the U.S.A. Other authorities, and as a matter of fact Dodd himself, suggest that a different classification could be made. The three-fold classification according to them are: (1) the calling of a new constitutional convention; (2) legislative proposal of amendments; and (3) a petition signed by a certain percentage of the voters. To these, W. Brooke Graves, in his 'American State Constitutions' would like to add two other alternative methods, namely: (1) revision by Commission; and (2) a distinction made between piecemeal amendment and general revision. According to him the convention method and Commission type are best for general revision and legislative proposals and initiative petition are best for occasional or piecemeal ones. Since the classification adopted by W.F. Dodd gives a clearer picture of the amending processes in the State Constitutions it is better to follow his classification for our purpose here. The six-fold classification according to him are as follows:

(1) **The Constitutional Convention Method**: Thirty-nine of the existing State Constitutions specifically authorize the calling of constitutional conventions to propose changes in the State Constitutions. In New Hampshire, the convention method is the only one permitted. The eleven States whose constitutions do not expressly provide for conventions are not necessarily excluded from using this method. The usual ruling of the state supreme courts on this point (as in Rhode Island in 1935) is that the right to hold constitutional conventions is inherent in the people and that such conventions may be provided for by legislative action.

Of the thirty-nine State Constitutions which have provided for the conventional method, seventeen state constitutions require the approval of two-thirds of both houses of the legislature before the question of whether a constitutional convention shall be held can be

submitted to the voters. Eight other states permit the legislature to do this by a simple majority and one by a three-fifths vote. In Georgia and Maine, a two-third vote and in Mississippi and Montana a majority vote in the legislature alone, without submitting the question to the voters, is sufficient to call a convention. In nine other states, it is mandatory for the legislature to submit the question of calling a convention to the voters at fixed intervals of time—in New Hampshire every seven years, in Alaska, Hawaii and Iowa every ten years, in Michigan every sixteen years, and in Maryland, Missouri, New York and Oklahoma every twenty years. These periods are not, however, always followed exactly, and in some instances, as in Maryland in 1951, even when the voters approve the calling of a convention the legislature may not issue the call. On the other hand, submitting the question more frequently does not seem to be forbidden in these States (vide—Book of the States, 1958-1959, pp. 11-12).

In several states of the U.S.A. where it had been difficult to convene a constitutional convention but where the constitution had needed an extensive overhauling, Constitutional Commissions have appeared in the States, off and on, for now over a century. This type of agency for amendment of the Constitution, mostly for radical or complete change, is resorted to when some State legislatures could not find time from its other duties to make a complete study of the state constitution with a view to revising it. This situation led in New Jersey to a legislative act in 1941 creating a Constitutional Revision Commission, and a similar situation in Georgia led the legislature in 1943 to establish a Commission to revise the Constitution. In New Jersey there had been only four amendments to the Constitution since 1875, whereas in Georgia there had been over 300, of which about 200 were of primarily local concern. Both Constitutions needed revision, but partly for opposite reasons. In each case the Commission did its work and submitted it to the legislature, which in turn sent it on to the voters for approval, although in New Jersey the legislature first made substantial changes in the proposal. The Georgia revision was approved by the voters in 1945 ; that of New Jersey was defeated in 1944. Bennett M. Rich in his article in the National Municipal Review, for March

1948, entitled 'Convention or Commission' states that there were 24 known commissions in fourteen states. They were New Jersey (7)—1832, 1854, 1873, 1881, 1894, 1905 and 1941—42 ; Georgia (1)—1943 ; California (1)—1929 ; Michigan (2)—1873 and 1942 ; Maine (1)—1875 ; North Carolina (2)—1913 and 1932 ; New York (2)—1872-3 and 1890 ; Pennsylvania (1)—1919-20 ; Rhode Island (2) 1897 and 1912 ; Tennessee (1)—1946 ; Vermont (1)—1908-10 ; Virginia (1)—1927 ; Washington (1)—1934 ; and West Virginia (1)—1929. In addition he found commissions were then at work in Minnisota and California.

(2) **The Legislative-Proposal Method** : There are four types in this :

(a) Amendments by two successive legislatures without a direct popular vote, e.g. Delaware. Maryland (1776) also authorised legislative amendment of the Constitution, provided the measure was passed at two successive sessions by a majority vote and with publication of the proposal for three months before the election of the second legislature.

(b) Amendments may be proposed by the legislature, with a popular vote upon a proposal but with the ultimate approval or rejection of the proposal left to the legislature—South Carolina and Mississippi.

(c) Amendments proposed by the legislature subject to popular approval, but with the amending process subject to such restrictions as to make amendment of the Constitution difficult. These restrictions are : (i) action of two successive legislatures for the proposal of amendment upto the theory that such proposals will be of sufficient importance to influence the selection of legislative personnel ; (ii) imposes limitation upon the number, frequency and character of proposal, e.g. Pennsylvania where amendments may not be voted upon oftener than once in 5 years ; in Indiana, only one proposal may be voted on at a time ; in Illinois, a legislature may not propose amendments to more than one article of the Constitution. Or that the same proposal may not be resubmitted within a specified period of time. In some cases any other proposal to amend the same article is prohibited within a specified period of time ; (iii) the requirement of a popular vote

greater than that of a majority of all the persons voting on the amendment *i.e.*, instead of permitting the ratification of an amendment by a majority of the persons voting thereon, this provision requires the affirmative vote of a majority of those participating in the election. Some States have all three of these restrictive measures in force in their constitutions, thereby making any piecemeal amendment exceedingly difficult, if not practically impossible.

(d) Permits unrestricted proposals by one legislative action only and adoption by the majority of the persons voting thereon. Commenting on this method, W. Brooke Graves observed :

> 'If Constitutions must be weighed down by great mass of detail, this is, of all the possible methods of constitutional amendment, the most satisfactory. This method has the merit of preserving the worthwhile distinction between constitutional and statutory law, without at the same time erecting impossible barriers to the use of the amending procedure.' (p. 66, American State Constitution.)

Of the 49 States providing for the proposal of amendments by the legislature, all but eight authorise introduction in either house. Connecticut, which was the first state (in 1818) to put this plan into a constitution, the plan itself having been suggested by Thomas Jefferson, in 1776—a procedure by which the legislature could propose amendments and the voters approve them—permits introduction in the lower house only ; Vermont, in the upper house only ; and Minnesota, Mississippi, Missouri, North Carolina, Rhode Island and Texas are silent on this subject. In five States, namely, Arkansas, Florida, Kentucky, New Mexico and Texas, proposals for amendment may be introduced only at regular sessions of the legislature. Lousiana prescribes that no proposal may be considered unless introduced within the first thirty days of the session, whether regular or special.

Thirty-five states permit a single session of the legislature to propose constitutional amendments ; thirteen states require the proposed amendment to be passed in two sesssions before it can go to the voters ; and one State, Delaware, authorises the legislature by a two-thirds vote in each of two sessions to adopt constitutional amendments without referring them to the voters.

Provision is regularly made with regard to the size of the vote necessary to approve proposals for amendment. A two-thirds vote of each house is necessary in 19 states, namely, in California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Kansas, Lousiana, Maine, Michigan, Montana, South Carolina, Tennessee, Texas, Utah, Washington, West Virginia and Wyoming. In 18 states the requirement is a majority of those elected, namely, in Arizona, Arkansas, Indiana, Iowa, Missouri, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia and Wisconsin. Seven States require a three-fifths majority, namely, in Alabama, Florida, Kentucky, Maryland, North Carolina, Ohio and Nebraska. In Nebraska a favourable vote of three-fifths of those elected to the single-chambered legislative body is required.

(3) **Constitutional Initiative Method** : exists in 14 states. In these states, in addition to the legislative power of proposal, the popular initiative of constitutional amendments is permitted. Under this plan any individual or group of individuals may draft a proposed amendment and, by securing the signatures of a certain number of qualified voters to a petition bring about its submission to a popular vote. This method originated in Oregon in 1902. It was the state legislature in Oregon and in a number of other states that proposed most of the amendments to authorise this new amending process. While the drive for this new amending method continues in strength, fourteen states have introduced it into their constitutions. Massachusetts, the last state to join the group, in 1918 adopted the constitutional initiative in a diluted form while the constitutional provision in Idaho appears to be inoperative. The remaining twelve states in which the ordinary constitutional initiative is operative are—Arizona, Arkansas, California, Colorado, Michigan, Missouri, Nebraska, Nevada, North Dakota, Ohio and Oklahoma.

The requirements for initiating constitutional amendments vary from state to state. In most states 8 or 10 per cent of the number of voters who voted for governor or justice of the supreme court at the previous election must sign a petition to make it effective. In Arizona and Oklahoma it takes 15 per cent, and in

North Dakota it takes 20,000 voters. Other limitations also have been imposed upon the operation of this method. These involve such matters as the geographical distribution of the signatures to the petition (Missouri), scrutiny of the proposal by the legislature (Massachusetts) and requirements as to the size of the popular vote necessary for approval.

3

The Evolution of the Amending Provision in the Indian Constitution

The mechanism of the amending process in the Indian Constitution was worked out by the Union Constitution Committee and the Drafting Committee of the Constituent Assembly with a view to achieving flexibility within a written federal Constitution.[1] It was a sort of compromise worked out between two divergent views prevalent amongst the Members of the Constituent Assembly, one emphasizing the adoption of the U S. federal pattern with a certain amount of rigidity and another laying stress on a simple majority of Parliament [2]

The initiative in the matter of evolving a suitable draft clause for amending the Constitution fell to the lot of the Union Constitution Committee. The ball was set rolling in the beginning of May, 1947 when the Union Constitution Committee decided that its members should send in memoranda, by 15th May, 1947, to the Constituent Assembly Secretariat[3] expressing their views on the principles of the Union Constitution and that the Constitutional Adviser, Shri B.N. Rau, would thereafter circulate to the members a self-contained memorandum in the form of a draft 'White Paper' which would be the basis of discussion for the Committee. To assist the members in the preparation of their Memoranda, it was also decided to circulate to them the Questionnaire which was issued by the Constitutional Adviser to the Members of the

Union Constitution Committee Documents—Rajendra Prasad's Collections.
Ibid.
Ibid.

Central and Provincial Legislatures. It should be noted in this connection that the Questionnaire drafted by Sir B.N. Rau was circulated on 17th March, 1947 and the question relevant for our purpose was question No. 27 which read as : 'What provisions should be made regarding amendments to the Constitution ?' The above question was followed by a note wherein the amending procedure in the Constitutions of U.K., Canada, Australia, Union of South Africa, U.S.A., Switzerland and Ireland were detailed.

The response to the Union Constitution Committee's call for the submission of Memoranda on the Principles of the Union Constitution was, however, not adequate. Only one Memorandum and that too a joint memorandum by Shri N. Gopalaswami Ayyangar and Sir Alladi Krishnaswamy Ayyar, was submitted on the principles of the Union Constitution. Clause XV of their memorandum relating to the amendment of the constitution suggested the following procedure :

> 'Amendment of the Constitution will be made by the Union Legislature but no amendment will be deemed to have been approved by the Union Legislature unless it has secured the support in each of the two chambers of a majority of not less than two-thirds of the sanctioned strength. Further such amendment will not have effect unless it is also approved by the Legislatures of not less than two-thirds of the Units.'[4]

Sardar K.M. Panikkar and Dr. S.P. Mookerjee, members of the Union Constitution Committee, in response to the questionnaire issued to them, indicated the following lines of amending procedure. The former wished that the initiative in respect of amendment should vest in either House of the Union Legislature and enactment possible only when two-thirds majority in both the Houses of the Union Legislature consented to it, followed by ratification by the Legislature of each Unit. The latter suggested that the initiation could be done by one-fourth of the members of either House of the Union Legislature and enactment possible only if a constitution amendment

Ibid. Also pp. 38-41—India's Constitution in the Making.

obtained a two-thirds majority in each of the two Houses of the Union Legislature and two-thirds majority of the constitutional convention or ratification by two-thirds of the Legislatures of the Units (Lower House). The Constitutional Convention, he further suggested, was to consist of members either directly elected or indirectly chosen by the Legislatures of the Units (Lower House).

Proposals for the amending procedure to be included in the Indian Constitution were also made in the Draft Constitutions for the Union of India, prepared and circulated to the members of the Constituent Assembly. Article I of Chapter X of Shri Munshi's draft, entitled 'Amendment' outlined the following procedure:

'(1) Amendments to this Constitution may be moved in either House of the Union Legislature, and any such amendment shall take effect if it is supported by—

(a) at least, two-thirds of the members voting in each House or a majority of the whole number of members of one House and a majority of the other ;

(b) by a majority in the Legislature of a majority of the States ;

Provided that the proportion of representation of a State in the State's House shall not be diminished without the consent of the Legislature of that State, nor shall this Article be so amended as to enable the proportional representation of the State in the State's House to be diminished without the consent of the Legislature of that State.'

Articles 90 to 98 of Chapter XV of Prof. K.T. Shah's Draft, entitled 'Amendment of the Constitution' contained the following proposal :

'90. This Constitution ordained and established by and in the name of the people of India and with their authority for the Union of India is open to revision from time to time in accordance with the following procedure, viz :—

91. Every proposal for the amendment or revision of the Constitution or any part thereof, shall be initiated in the Legislature of the Union, except as regards the redistribution of the boundaries of any existing component part or parts of the Union and except as regards the Fundamental Rights and Obligations of citizens.

92. In the latter case, proposals for changing the boundaries or redistributing the areas, or regrouping the units, shall be initiated by and in the Legislature of the Unit or Units concerned and shall be placed before the Union Legislature if adopted by a majority of two-thirds of the total members of either House of the Legislature of the Units concerned.

93. No alteration or amendment of the Guaranteed Fundamental Rights of Citizens, of Minorities, shall be made except by a direct reference to the people of the Union, made at the instance of the Head of the State ; and if accepted by a majority of at least two-thirds of the total adult citizens or members of the Minorities concerned, the same shall be communicated by the Head of the State to the Union Legislature, who shall then propose the necessary amendment to the Constitution ; and thereafter the same procedure shall be followed as laid down in Article 94.

94. No amendment of this Constitution shall be made, unless proposed in the Legislature of the Union, and adopted by a majority of three fifths of the total membership in either House of the Legislature, and agreed to by the Head of the State.

95. An amendment thus adopted shall not be deemed to have been duly made effective until it is referred to the Legislatures of all the component parts of the Union, and approved by two-thirds at least of the total membership of the Legislature, or either House of the Legislature in every case where there are two Houses, and notified to the Head of the State as having been duly approved.

96. If the requisite majority is not forthcoming within two years of the date when the Union Legislature and Head of the State had accepted it, the Head of the State may refer the proposed amendment to the adult voters of the component part or parts of the Union concerned ; and on approval by a majority of the voters thus appealed to, the amendment shall be declared to have been duly made part of the Constitution.

97. Any amendment of the Constitution may be proposed by any Legislature of any component part of the Union; and if duly adopted in that Legislature, as provided for in the paragraph next preceding, it shall be placed before the Union Legislature, whereupon the same procedure shall be followed till the amendment is duly adopted and made part of the Constitution, or allowed to drop.

98. Every amendment duly passed shall be recorded in the Supreme Court of Judicature as part of the Constitution.'

As Sir B.N. Rau's Questionnaire was also submitted to the members of the Provincial Constitution Committee in order to enable them to formulate the principles of a model Provincial Constitution, views in respect of the amending procedure (Q.N. 27) were submitted by Shri B.G. Kher, Rajkumari Amrit Kaur, Dr. Subbarayan, Shri Brijlal Biyani and Shri Rohini Kumar Chaudhury. Shri B.G. Kher, in his observations recorded on the 20th May, 1947 suggested a procedure as under :

> 'The initiative in respect of any amendment to the Constitution may be taken by either the Provincial Legislature or by the Union Legislature, but it should be approved by a majority of not less than two-thirds of each House of Legislature both of the Union and of the Province. There should be an interval of six months between the date on which initiative in respect of an amendment is taken in either of the Legislatures and its enactment.'

Shri P. Subbarayan stated that the Constitution should be altered by an Act of the Union Legislature on the recommendation of the

Provincial Legislature. But in cases where minority interests were affected, any such amendment should only be made if at least two-thirds of the members of the minorities concerned agreed to such an amendment. With regard to other amendments, there need not be any such restriction, he added. Rajkumari Amrit Kaur wished that 'an amendment could be brought into effect by the Legislature, subject to a referendum which shall have been carried by a two-thirds majority'. Shri Brijlal Biyani held that the Constitution could be amended only by the Provincial Assembly by a majority of vote; while Shri R.K. Chaudhury contended that a two-thirds majority of the Legislature was required for constitutional amendment.

As it was not found possible to prepare a memorandum embodying the views of the several members of the Union Constitution Committee in view of the inadequate response as mentioned above, Sir B.N. Rau, prepared an independent memorandum together with a detailed draft of as many of the proposed provisions of the Union Constitution as could be drafted at that stage and submitted it to the Union Constitution Committee on May 30, 1947. Part VIII of the Memorandum entitled the 'Amendment of the Constitution' ran as follows :

> 'An Amendment to the Constitution may be initiated in either House of the Union Parliament and when the proposed amendment is passed in each House by a majority of not less than two-thirds of the total number of members of that House and is ratified by the Legislatures of not less than two-thirds of the Units of the Union, excluding the Chief Commissioner's Province, it shall be presented to the President for his assent, and upon such assent being given, the amendment shall come into operation.
>
> Explanation I.—For the purposes of this clause, only the legislatures of the Units specified in the Schedule—shall be recognised.
>
> Explanation II.—The Union Parliament may, from time to time, make such additions or alterations in the aforesaid Schedule—as it thinks fit and such additions or alterations shall have effect as if enacted in the Constitution.'

A Note which followed the above stated that the explanations were necessary, because some of the Units, particularly where they consisted of groups of Indian States, might not possess proper legislatures. If care was taken not to admit a Unit to the Union, unless it possessed a proper legislature, the explanations might not be necessary, it added. However, in Part IX of the Transitional Provisions of the Memorandum, Sir B.N. Rau included a removal-of-difficulties clause (clause 6) that would enable Parliament, notwithstanding anything in the amending clause, to make 'such adaptations and modifications' as might be necessary as also 'such other temporary provisions for the purpose of removing any such difficulties as may be specified in the Act' for a period of three years from the commencement of the Constitution.[1] A Note[2] at the end of clause 6 stated that the removal-of-difficulties clause was quite usual, as for example, section 310 of the Government of India Act, 1935 and that the period of three years had been borrowed from article 51 of the Irish Constitution.[3]

Union Constitution Committee papers—Shri P.N. Krishnamani's collections.

Ibid.

The section read as follows :

310.—*Power of His Majesty in Council to remove difficulties.*—(1) Whereas difficulties may arise in relation to the transition from the provisions of the Government of India Act to the provisions of this Act, and in relation to the transition from the provisions of Part XIII of this Act to the provisions of Part II of this Act :

And whereas the nature of those difficulties, and of the provisions which should be made for meeting them, cannot at the date of the passing of this Act be fully foreseen :

Now, therefore, for the purpose of facilitating each of the said transitions His Majesty may by Order-in-Council—

(a) direct that this Act and any provisions of the Government of India Act still in force shall, during such limited period as may be specified in the Order, have effect subject to such adaptations and modifications as may be so specified ;

(b) make, with respect to a limited period so specified such temporary provision as he thinks fit for ensuring that, while the transition is

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Discussions on the items in the Questionnaire circulated by the Constitutional Adviser, particularly on item 27, was scheduled to be considered at the joint meeting of the Union Constitution and the Union Powers Committees, at 3 p.m. on 10th June, 1947. The item, however, was taken up only on the following day, the

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being effected and during the period immediately following it, there are available to all governments in India and Burma sufficient revenues to enable the business of those Governments to be carried on; and

(c) make such other temporary provisions for the purpose of removing any such difficulties as aforesaid as may be specified in the Order.

(2) No Order-in-Council in relation to the transition from the provisions of Part XIII of the Act to the provisions of Part II of this Act shall be made under this section after the expiration of six months from the establishment of the Federation and no other Order-in-Council shall be made under this section after the expiration of six months from the commencement of Part III of this Act.

The article is as follows :

Transitory Provisions

51.—1. Notwithstanding anything contained in article 46 hereto, any of the provisions of this Constitution, except the provisions of the said article 46 and this article, may, subject as hereinafter provided, be amended by the Oireachtas, whether by way of variation, addition or repeal, within a period of three years after the date on which the first President shall have entered upon his office.

2. A proposal for the amendment of this Constitution under this article shall not be enacted into law if, prior to such enactment, the President, after consultation with the Council of State, shall have signified in a message under his hand and seal addressed to the Chairman of each of the Houses of the Oireachtas that the proposal is in his opinion a proposal to effect an amendment of such a character and importance that the will of the people thereon ought to be ascertained by Referendum before its enactment into law.

3. The foregoing provision of this article shall cease to have the force of law immediately upon the expiration of the period of three years referred to in section 1 hereof.

4. This article shall be omitted from every official text of this Constitution published after the expiration of the said period.

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11th June, and it was decided that the question of how the Constitution might be amended should be taken up at a later stage when there was a fuller picture of what its major provisions were.

In the meantime Sir B.N. Rau recast the provisions in the Memorandum on the Indian Constitution, as a result of which Parts VIII and IX relating to amendments of the Constitution and Transitory Provisions, were shifted to Parts X and XI respectively.

On 30th June, 1947, the Union Constitution and the Union Powers Committees, at a joint meeting, took up for consideration Shri B.N. Rau's draft in Part X, relating to the amending procedure and decided that in that clause for the words 'the total number of members' the words 'the members present and voting' should be substituted. It further suggested that for the words 'two-thirds of the Units' the words 'one-half of the Units' should be substituted. It was, however, decided that a sub-committee consisting of Shri N. Gopalaswami Ayyangar, Shri B.H. Zaidi, Dr. Ambedkar, Shri K.M. Munshi and Sardar K M. Panikkar should further examine the question of ratification of amendments

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Clause 6 of Sir B.N. Rau's Memorandum in Part IX read as follows :

6. Whereas difficulties may arise in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, and

whereas the nature of the difficulties and of the provision which should be made for meeting them cannot at the date of the commencement of this Constitution be fully foreseen.

Now, therefore, for the purpose of facilitating the said transition, the Union Parliament may, notwithstanding anything contained in Part VIII by Act—

(a) direct that this Constitution, except the provisions of the said Part and of this clause, shall, during such period as may be specified in the Act, have effect subject to such adaptations and modifications as may be specified ;

(b) make such other temporary provisions for the purpose of removing any such difficulties as aforesaid as may be specified in the Act.

No Act shall be made under this clause after the expiration of three years from the commencement of this Constitution.

to the Constitution by the Legislatures of the Units and submit a report.

The change suggested was included in the Report of the Union Constitution Committee, dated the 4th July, 1947 and Shri B.N. Rau also incorporated these changes in Part X of his Memorandum, The modified part of the Memorandum read as follows :—

PART X

AMENDMENT OF THE CONSTITUTION

An amendment of the Constitution may be initiated in either House of the Federal Parliament and when the proposed amendment is passed in each House by a majority of not less than two-thirds of the members of that House present and voting is ratified by the legislatures of not less than half of the Units of the Federation, it will be presented to the President for his assent, and upon such assent being given, the amendment shall come into operation.

Explanation : 'Unit' in this clause has the same meaning as in clause 14 of Part IV . Where a Unit consists of a group of States, a proposed amendment shall be deemed to be ratified by the legislature of the Unit, if it is ratified by the majority of the legislatures of the States in the group.

The sub-committee on Amendment of the Constitution appointed by the Union Constitution Committee held its meeting on the 11th July at 10 A.M. All the five members of the Committee were present and they unanimously elected Dr. Ambedkar as the Chairman of the Committee. After discussion, the sub-committee reached at the following decisions :—

(1) the ratification of the amendment to the Constitution should be by a majority of the Legislatures of each class of Units, that is, the Provinces, the Federated States and where States were grouped together to form a Unit, such groups of States.

(2) The Explanation proposed in Part X of the Memorandum on the Indian Constitution embodying the recommendations of the Union Constitution Committee should be retained.

Shri Khaitan's letter making certain suggestions regarding the ratification of the amendment of the Constitution by the Units was also read by the Chairman before the Committee (letter not to be found in any of the existing collection of documents).

On the following day, the 12th July, 1947, the Union Constitution Committee met at 11 A.M. The members present were : Pandit Jawaharlal Nehru, Dr. Rajendra Prasad, Sir N. Gopalaswamy Ayyangar, Dr. B.R. Ambedkar, Shri T.T. Krishnamachari, Sardar K.M. Panikkar, Shri B.H. Zaidi, Sir A. Krishnaswami Ayyangar and Pandit Gobind Ballab Pant. The report of the sub-committee appointed to consider the procedure for the amendment of the Constitution was taken up for consideration and the following decisions were arrived at :—

(1) An amendment of the Constitution in respect of any provision thereof other than those relating to matters specified in paragraph (2) below shall not be operative, unless it is passed in each House of the Federal Parliament by a majority of the total membership of that House and also by a majority of not less than two-thirds of the members of that House present and voting and that it will not be necessary for such amendment to be ratified by the legislatures of the Units of the Federation.

(2) An amendment of the Constitution in respect of any provision thereof relating to any of the following matters, namely :—

(a) changes in the Federal Legislative List,

(b) representation of Units in the Federal Parliament, and

(c) powers of the Supreme Court,

will not become operative unless it is passed in each House of the Federal Parliament in the manner provided in paragraph (1) above and also ratified by the Legislatures of Units representing a majority of the population of all the Units of the Federation in which Units representing at least one-third of the population of the Federated States are included ;

(3) Part X of the Memorandum on the Indian Constitution should be amended accordingly.

It was also decided that a supplementary report should be presented to the Constituent Assembly embodying the aforesaid decisions.

The Supplementary Report of the Union Constitution Committee drafted the following day, the 13th July, 1947, embodied the above decision and necessary changes were also made in Sir B.N.Rau's Memorandum. The revised Part X of Sir B.N.Rau's Memorandum, after incorporating the changes contained in the Union Constitution Committee Supplementary Report, read as follows :

PART X

AMENDMENT OF THE CONSTITUTION

The amendment of the Constitution may be initiated in either House of the Federal Parliament and when the proposed amendment is passed in each House 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, it shall be presented to the President for his assent, and upon such assent being given the amendment shall come into operation :

Provided that if such amendment is in respect of any provision of the Constitution relating to all or any of the following matters, namely :—

(a) any change in the Federal legislative list ;

(b) representation of units in the Federal Parliament ; and

(c) powers of the Supreme Court,

it will also require to be ratified by the legislatures of Units representing a majorty of the population of all the Units of the Federation in which Units representing at least one-third of the population of the Federated States are included.

Explanation :—"Unit" in this clause has the same meaning as in clause 14 of Part IV. Where a Unit consists of a group of States, a proposed amendment shall be deemed

to be ratified by the legislature of the Unit, if it is ratified by the majority of the legislatures of the States in the group. Consequential changes were also made in clause 6 of Part XI relating to Transitional Provisions. It now read as follows :

"6. As there may be unforeseen difficulties during the transitional period, there should be a clause in the Constitution on the following lines :—

The Federal Parliament may, notwithstanding anything contained in Part X, by Act—

(a) direct that this constitution, except the provisions of the said Part of this clause, shall, during such period, if any, as may be specified in the Act, have effect subject to such adaptations and modifications as may be so specified ;

(b) make such other provisions for the purpose of removing any such difficulties as aforesaid as may be specified in the Act.

No Act shall be made under this clause after the expiration of three years from the commencement of this Constitution

(*Note* : The removal of difficulties clause is now quite usual ; see for e.g. section 310 of the Government of India Act, 1935. The period of 3 years has been borrowed from article 51 of the Irish Constitution. This clause will make the process of amendment comparatively easy during the first three years.)

The provision relating to amendment as proposed by the Union Constitution Committee and embodied in Shri B.N. Rau's Memorandum on the Union Constitution did not come up before the Constituent Assembly for discussion. On 31st July, 1947 when the President suggested the taking up for discussion of Part X, Shri N. Gopalaswamy Ayyangar requested permission for the postponement of discussion on it on the ground that some of the amendments in respect of the amending procedure had raised a very important issue as to what provision should be made for giving provincial legislatures some constituent power for amending the Constitution of the Province. He expressed the desire that the subject could be taken up at the next session.

Consequently, the President decided that the consideration of Part X be held over.

Prior to this, however, Shri K.M. Munshi, while moving for consideration the further report of the order of Business Committee, appointed by the Resolution of the Assembly of the 25th January, 1947 on 14th July, 1947 made a reference to the amending procedure in the following words :

> "Further, we know that this House is working under high pressure and within a limited time. For that purpose members will find that in the Report of the Union Constitution Committee, a provision has been made to this effect that within the first period of three years the Constitution could be amended easily. In framing a Constitution as we are doing under great pressure, there are likely to be left several defects, and it is not necessary that we should have a very elaborate and rigid scheme for amending these provisions in the first three years."

The next stage in the evolution of the article relating to the amending provision in the Constitution was October, 1947 when Shri B.N. Rau published his Draft Constitution. In article 232, Part XII of the Draft, Shri Rau embodied the provision relating to amendment adopted by the Union Constitution Committee in its Supplementary Report. The article ran as follows :—

> "232. An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of the Federal Parliament. and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given, the Bill containing such amendment shall come into operation :
>
> Provided that if such amendment seeks to make any change in—
>
> (a) the Federal Legislative List ;

(b) the representation of Units in the Federal Parliament ; or

(c) the powers of the Supreme Court,

the amendment shall also require to be ratified by the Legislatures of Units representing a majority of the population of all the Units of the Federation in which Units representing at least one third of the population of the Federated States are included :

Provided further that the provisions of this Constitution relating to the reservation of seats for the Muslim community, the Scheduled Castes, the Scheduled Tribes, the Indian Christian community or the Sikh community either in the Federal Parliament or in any Provincial Legislature, shall not be amended within the period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution in the manner in this section.

Explanation 1.—Where a Unit consists of a group of States, the proposed amendment shall, for the purposes of this section, be deemed to be ratified by the Legislature of the Unit if it is ratified by the majority of the Legislatures of the States in the group.

Explanation 2.—In this section, the expression 'population' means the population as ascertained at the last preceding decennial census."

It is to be noted that to the draft article as proposed by the Union Constitution Committee, Shri B.N. Rau added a proviso, inspired by the example of the Sapru Committee Report (p. 450), prohibiting for ten years, amendment of the clauses relating to reservation of seats in the Provincial Legislatures and Parliament for Muslims, Sikhs, Indian Christians, Scheduled Castes and Scheduled Tribes. Shri B.N. Rau also wrote into his Transitional Provisions, two new clauses. The first one, clause 237A, an adaptation of section 310 of the 1935 Act, gave to the President power to adapt and vary the Constitution 'for the purpose of

removing any difficulties', but this power was to last only until the first Federal Parliament under the Constitution had been convened. The second clause, clause 238, derived from article 51 of the Irish Constitution, laid down that for three years after the commencement of the Constitution, the Parliament, notwithstanding the provisions of the amending clause, could 'by Act amend this Constitution whether by way of variation, addition or repeal'.

> 237A. **Power of the President to remove difficulties (cf. Government of India Act, 1935, S.310).**—For the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, the President may by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of variation, addition, or repeal, as he may deem to be necessary or expedient. No such order shall be made after the first meeting of the Federal Parliament duly constituted under Chapter II of Part IV of this Constitution.
>
> 238. **Power to modify Constitution during first three years (cf Irish Constitution—Art. 51).**—Until the expiration of three years from the commencement of this Constitution, the Federal Parliament may, notwithstanding anything contained in Part XIII, by Act amend this Constitution whether by way of variation, addition, or repeal.

Sir B.N. Rau attached great importance to clause 238 which permitted the Federal Parliament to amend the Constitution in any way it thought fit during the first three years after the commencement of the Constitution, so much so, he put it as a point for discussion during his trip to Europe and the U.S.A., subsequent to the publication of his Draft, between 26th October and 2nd December, 1947. Para 5 of the points for discussion ran as follows :—

> 'There is a provision in the Draft of the Indian Constitution which permits the Federal Parliament to amend the Constitu-

tion in any way it thinks fit during the first three years after the commencement of the Constitution ; for subsequent amendments a more complicated process will be necessary. Is this not a sound provision having regard to the desirability of an easy mode of correcting errors or defects during the first few years ?'

Reporting to the President of the Constitutent Assembly on 18th November, 1947 about the results of his discussions in Washington, Ottawa and New York, Shri B.N. Rau observed that Frankfurter J., of the U.S. Supreme Court had considered clause 238 as an excellent provision although he hoped that it would not be necessary to make frequent use of it and that F.H. Boland, Secretary, External Affairs Department, Government of Ireland, whom he met in Washington D.C., on the 7th November, 1947 had mentioned that they had also a provision enabling the Constitution to be amended more easily for the first three years after the coming into force of the Constitution and that the first important amendment under that provision was made soon after the war broke out when it was found that the emergency powers under the Constitution could be resorted to only in the case of a war in which Ireland itself was engaged and not in the case of a war in which Ireland was not engaged. 'The provision in clause 238 of our Draft Constitution enabling the Federal Parliament during the first three years to amend the Constitution by a simple Act of its own is regarded here as a wise precaution', he wrote.

Subsequently, Sir B.N. Rau, interviewed De Valera, the Irish President, on November 26, 1947. "De Valera", he wrote, in a letter dated 7th December, 1947 to Pandit Nehru and endorsed to the President giving impressions of his tour, "had considered the three years period too short and that from his own personal experience of a similar provision in the Irish Constitution, he would suggest at least five years."

The Drafting Committee discussed Shri B.N. Rau's draft article 232 relating to the amending provision to be incorporated into the Constitution, on 6th, 9th and 10th February, 1948. At the meeting of the Committee held on the 6th, wherein

besides Dr. B.R. Ambedkar, Sir A. Krishnaswamy Ayyar, Maulvi Saiyid Muhamad Sa'adullah and Sir N. Madhave Rao were present, it was decided that the article should be revised as under :—

PART XIII

AMENDMENT OF THE CONSTITUTION

232. (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament and when the Bill is passed in each House by a majority of the total membership of that House present and voting, it shall be presented to the President for his assent and upon such assent being given, the Bill containing such amendment shall come into operation :

Provided that if such amendment seeks to make any change in—

(a) the Union List ;

(b) the representation of States in Parliament ; or

(c) the powers of the Supreme Court, the amendment shall also require to be ratified by the Legislatures of States representing a majority of the population of all the States for the time being specified in Part I and Part III of the First Schedule in which States representing at least one-third of the population of the States for the time being specified in Part III of the First Schedule are included.

(2) Notwithstanding anything in the last preceding clause and subject to the provisions of the next succeeding clause, an amendment of the Constitution seeking to make any change in Chapter III of Part VI of this Constitution in relation to any States for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or where the State has a Legislative Council, in either House of the Legislature of the State ; and when the Bill is passed by the Legislative Assembly or where a State had a Legislative Council, by both Houses of the Legislature of the State, by a majority of the total member-

ship of the Assembly or each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House, it shall be presented to the Governor for assent and upon assent being given by the Governor or the President, the Bill containing such amendment shall come into operation.

(3) Notwithstanding anything contained in the two preceding clauses, the provision of this Constitution relating to the reservation of seats for the Muslim community, the Scheduled Castes, the Scheduled Tribes, the Indian Christian community or the Sikh community either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule, shall not be amended within the period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution in the manner provided in clause (1) of this article.

Explanation I.—For the purposes of clause (1) of this article, the proposed amendment shall be deemed to be ratified by the Legislatures of a group of States for the time being specified in Part III of the First Schedule if it is ratified by the majority of the Legislatures of the States in the group.

Explanation II.—In clause (1) of this article, the expression 'population' means the population as ascertained at the last preceding census.

At the meeting of 9th February, 1948 wherein all the members present at the previous meeting were present the Drafting Committee revised the article as under :—

*.232 (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the

President for his assent and upon such assent being given *to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill as so assented to* :

Provided that if such amendment seeks to make any change in—

(a) *any of the Lists in the Ninth Schedule* ;

(b) the representation of States in Parliament ;

(c) the powers of the Supreme Court,

the amendment shall also require to be ratified by the Legislatures of the States representing a majority of the population of all the States for the time being specified in Part I and Part III of the First Schedule :

Provided further that the ratifying States shall include States for the time being specified in Part III of the First Schedule representing at least one-third of the population of all the States for the time being specified in that Part.

(2) Notwithstanding anything in the last preceding clause and subject to the provisions of the next clause, an amendment of the Constitution seeking to make any change *in the provisions of this Constitution relating to the number of Houses in the Legislature of any State* for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or where the State has a Legislative Council, by both Houses of the Legislature of the State, by the majority of the total membership of the Assembly of each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the *President* for assent and upon assent being given by the President *to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill as so assented to*.

(3) (retained as decided at the meeting of the 6th February).

(* The Committee was of the opinion that item (a) of the proviso of the article should contain reference to all the Lists in the Ninth Schedule and not only to the Union List. It was also of the opinion that provision should be included in the article for enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of the Constitution relating to the number of Houses in the Legislature of such State provided such Bill was also passed by an absolute majority of the Legislature of such State and was thereafter ratified by Parliament by an absolute majority, and hence had inserted clause (2) in the article for the purpose.)

Further changes in the article were made on 10th February, 1948. The Drafting Committee members present at the meeting were the same as before. The revised article now read as below :—

*232.(1) Part (1) same as decided upon by the Committee at the meeting of the 9th with the deletion of the words 'as so assented to' at the end of it.

Sub-clauses (a) and (b) the same as in the previous draft.

(c) the powers of the Supreme Court, the amendment shall also require to be ratified by the legislatures *of not less than one half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule.*

** (2) Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of the Constitution *relating to the method of choosing a Governor* or the number of Houses of the Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State, or, where the State has a Legislative Council, in either House of the Legislative of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legis-

lature of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to the Parliament for ratification, and when it is ratified by each House of the Parliament by a majority of the total membership of that House, it shall be presented to the President for assent and upon assent being given by the the President to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

(3) Notwithstanding anything contained in the two preceding clauses, the provision of this Constitution relating to the reservation of seats for the Muslim community, the Scheduled Castes, the Scheduled Tribes, the Indian Christian community or the Sikh community, either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule, shall not be amended within the period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution.

Explanation.—Where a group of States is for the time being specified in Part III of the First Schedule, the entire group shall be deemed to be a single State for the purposes of the proviso to clause (1) of this article.

(* The Committee was of opinion that provision should be included in the article for enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of the Constitution relating to the choosing of the Governor and the number of Houses of the Legislature in such State provided such Bill was passed by an absolute majority of the Legislature of such State and was thereafter ratified by Parliament by an absolute majority and hence had inserted clause (2) in the article.

(** The words 'the method of choosing a Governor or' should be retained in the clause only if the second alternative in article 112 was not adopted.)

The draft article as modified by the Drafting Committee at its meeting of 10th February was incorporated in the Draft Cons-

titution of India prepared by the Drafting Committee and submitted to the Constituent Assembly on 21st February, 1948. Clauses (1) and (2) were grouped together and they formed clauses (1) and (2) of article 304 and clause (3) became article 305 of the Draft. The splitting up was done with a view to give a reasonable size to the article. Articles 304 and 305 of the Draft Constitution read as follows :—

"304. (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill :

Provided that if such amendment seeks to make any change in—

* (a) any of the Lists in the Seventh Schedule ;
(b) the representation of States in Parliament ; or
(c) the powers of the Supreme Court,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule.

(2) Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of this Constitution relating to the *method of choosing** *the Governor* or the number of Houses of the Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or, where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legislature

of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to the Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the President for assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

Explanation—Where a group of States is for the time being specified in Part III of the First Schedule, the entire group shall be deemed to be a single State for the purpose of the proviso to clause (1) of this article.

305. **Reservation of seats for minorities to remain in force for only ten years unless continued in operation by amendment of the Constitution.**—Notwithstanding anything contained in article 304 of this Constitution, the provisions of this Constitution relating to the reservation of seats for the Muslims, the Scheduled Castes, the Scheduled Tribes or the Indian Christians either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule shall not be amended during the period of ten years from the commence ment of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution.

(* The Committee is of the opinion that item (a) of the proviso to clause (1) of this article should contain reference to all the Lists in the Seventh Schedule.

(** The Committee is also of opinion that provision should be included in this article for enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of this Constitution relating to the choosing of the Governor and the number of Houses of the Legislature in such State and is thereafter ratified by Parliament by an absolute majority, and has added clause (2) to this article for the purpose.)

(*** The words 'the method of choosing Governor or' should be retained in this clause only if the second alternative in article 131 is not adopted.)

Notices of a number of amendments to the amending provision as drafted by the Drafting Committee were given and they were examined by the Drafting Committee and the Special Committee of the Constituent Assembly appointed for the purpose. Notes on a number of amendments, made by the Constitutional Adviser, were also made available to the Drafting Committee.

The Drafting Committee met on 24th March, 1948 to consider the amendments and comments on the Draft Constitution. They, however, made no changes in respect of article 304 except transferring clause (2) to article 169 relating to the States as being a more appropriate place for it. Article 304, therefore, in the revised draft stood as follows :—

304. An amendment of the constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

Provided that if such amendment seeks to make change in—

(a) any of the Lists in the Seventh Schedule ;

(b) the representation of States in Parliament ; or

(c) the powers of the Supreme Court,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule.

The revised Draft article 304 as formulated by the Drafting Committee was taken up for consideration by the Constituent Assembly on 17th September, 1949.

At the outset Dr. B.R. Ambedkar moved his amendment No. 118 in respect of the procedure for amendment of the Constitution. He moved :

'304. An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill :

Provided that if such amendment seeks to make any change in—

(a) any of the Lists in the Seventh Schedule, or

(b) the representation of States in Parliament, or

(c) Chapter IV of Part V, Chapter VII of Part VI, and article 213 of this Constitution,

the amendment shall require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Parts I and III of the First Schedule.'

Dr Ambedkar also moved his other amendment, namely, No. 207 which stated :

"That in amendment No. 118 of List III (Eighth week) for the proviso to the proposed article 304 the following proviso be substituted :—

Provided that if such amendment seeks to make any change in-

(a) article 43, article 44, article 60, article 142 or article 213A of the Constitution ; or

(b) Chapter IV of Part V, Chapter VII of Part VI, or Chapter I of Part IX of this Constitution ; or

(c) any of the Lists in the Seventh Schedule ; or

(d) the representation of States in Parliament ; or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Parts I and III of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent."

Subsequently, Shri T.T. Krishnamachari did not move the amendments Nos. 119 and 158 standing in his name on the ground that they were covered by Dr. Ambedkar's amendment No. 207. Shri Santhanam also did not move his amendment No. 157. Dr. P.S. Deshmukh then moved his amendment No. 208 which read as follows :

'That in amendment No. 118 of List III (Eighth Week) for the substantive part of the proposed article 304, the following be substituted :—

304. This Constitution may be added to, or amended by, the introduction of a Bill for this purpose in either House of Parliament and passed in both Houses of Parliament by a clear majority of the total membership of each House. The provisions of the Bill shall not, however, come into force until assented to by the President.'

He also moved amendments Nos. 210 and 212. The former ran as follows :

'That in amendment No. 118 of List III (Eighth Week), the following proviso be added to the proposed article 304 :—

'Provided that for a period of three years from the commencement of this Constitution, any amendment of the Constitution certified by the President to be not one of substance may be made by a Bill for the purpose being passed by both Houses of Parliament by a simple majorty. This will, among other things, include any formal amendment recommended by a majority of the Judges of the Supreme Court on the ground of removing difficulties in the administration of the Constitution or for the purpose of carrying out the Constitution in public interest and certified by the President to be necessary and desirable.'

The latter amendment was as follows :

'That with reference to amendment No. 118 of List III

(Eighth Week), after article 304, the following new article be inserted :—

304A. Notwithstanding anything contained in this Constitution to the contrary, no amendment which is calculated to infringe or restrict or diminish the scope of any individual rights, any rights of a person or persons with respect to property or otherwise, shall be permissible under this Constitution and any amendment which is or is likely to have such an effect shall be void and ultra vires of any Legislature.'

The main purport of his moving amendment No. 208, Dr. Deshmukh said, was that the amendment of the Constitution should not be made as difficult as it had been sought to be done by the article proposed by Dr. Ambedkar. The main reason for his suggesting to make it easier for the amendment of the Constitution was, he stated, that in spite of the fact that they had spent more than two and a half years in framing the Constitution, they were conscious that there were many provisions which were likely to create difficulties when the Constitution actually started functioning. Hence, he added, that every facility should be afforded for amending the Constitution. If they did not provide the necessary outlets or safety-valves for the air or the storms to pass through, he pointed out, it was likely that the whole ship might be blown up and for that reason he had two amendments presented there. One was that it should be possible for the Parliament to amend it without recourse to two-thirds majority, he said. In the clause proposed by Dr. Ambedkar, he observed, there was a double check so far as any Bill to be passed for amendment of the Constitution was concerned. Even if they had to change a comma or effect some consequential changes, very strenuous efforts would have to be made for bringing out that change, he added. If they did not allow them chances to mould the future of the country in their own ways, by simplifying the procedure by an amendment, they would have no alternative left but to go the whole hog and reject the Constitution as a whole, he pointed out.

Regarding his second amendment, he said, he had suggested that at least for a period of five years it should be possible for

the Parliament not only to pass amendments by a majority of the House but also that whenever the President certified that a certain amendment was not one of substance, was not going to vitiate or abrogate the principles of the Constitution, but being one of form obstructed the working and the proper administration of governance of India, it should be possible to pass that amendment with a simple majority of the House. He added that he had also brought in the Judges of the Supreme Court because on their wisdom was going to depend much of the fate of the Constitution. Further, he said, in order to protect the Constitution wherever they had conferred any rights on the people, whether they were rights of citizenship, fundamental rights or they were consequential rights, he had suggested amendment No. 212 and added that that would not prevent the bringing in of measures to amend the Constitution with a view to enlarging those rights nor was that necessary. He further added that article 15A was not quite sufficient for the protection of the liberty of the individuals and therefore that amendment was both necessary and desirable.

Shri Brajeshwar Prasad then moved his three amendments namely :—

1. 'That in amendment No. 118 of List III (Eighth Week) in the proposed article 304, the words "and by a majority of not less than two-thirds of the members of that House present and voting" be deleted.'
2. 'That in amendment No. 118 of List III (Eighth Week), clause (a) of the proviso to the proposed article 304 be deleted.'
3. 'That in amendment No. 207 of List V (Eighth Week), in the proposed proviso to article 304, for the words "Legislatures of not less than one-half of the States for the time being specified in Parts I and III of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent" the word "electorate" be substituted.'

Moving the amendments, Shri Brajeshwar Prasad observed that there was a world of difference between Dr. Ambedkar's amend-

ments Nos. 118 and 207 and that more powers had been taken away from the hands of Parliament and placed in the hands of the State Legislatures, the effect of which would be that vital articles of the Constitution could not be amended by the Parliament and the consent of 50 per cent of the Legislatures would be necessary in order to pass an amending Bill. He held the view that in the process of amendments, the Legislatures of the States should not be associated. Pointing out that a proviso existed in the Australian Constitution to the effect that if there was a conflict between the two Houses of Parliament or if either House did not pass the amending Bill of the other, then the whole matter had to be referred to the electorate, he suggested that it would be beneficial if they incorporated that provision of the Australian Constitution in the Indian Constitution. The purpose of amending a Constitution in effect, he said, would be to take more powers from the hands of the State Governments and confer them on the Centre, he added that that being so, it was beyond his comprehension how any legislature would be agreeable to such a proposition. He favoured a referendum because it was democratic in the sense that it was only an appeal to the people ; that it cured patent defects in party governments ; that it clearly recognised the sovereignty of the people ; and that it would be a strong weapon for curbing the absolutism of a party possessing a parliamentary majority.

Referring then to the other parts of the amendment, Shri Brajeshwar Prasad said that the method they sought to introduce by article 304 was totally detestable and repugnant ; that the two-thirds majority provision would act as a brake and that no amendment of the Constitution would be possible if that requirement was adhered to. He stated that even in the interests of the States, that was not necessary. He argued that the members of the Upper House of the Parliament would consist entirely of the representatives from the States and it was inconceivable that those people would under any circumstances seek to vest more powers in the centre and take away the powers of the States. He, therefore, held the opinion that at least for a period of ten years from the commencement of the Constitution, those safeguards should be removed and the method of amending the Constitution should

be made easy. He said that he was all for a flexible Constitution in order to meet a revolutionary situation that was to rise in Asia in the near future ; to meet the needs of the coming century ; and to adjust to the dominant tendencies of the age and the needs of the developing economy.

Shri Brajeshwar Prasad did not move his other amendments.

Shri H.V. Kamath at this stage pointed out that the article as moved by Dr. Ambedkar then minus the proviso was identical with the old draft and his amendments were all to that first part of the article and as such he felt that his amendments would be in order. He was then permitted to move his amendments Nos. 3239, 3241, 3248, 3249 and 3250 of the printed list of amendments, Volume II. He did not propose to move amendment No 3246 that stood in his name in that list. The five amendments moved by him were as follows :—

(1) 'That before clause (1) of article 304, the following new clause be inserted and the existing clauses be renumbered accordingly :

(1) Any provision of this Constitution may be amended, whether by way of variation, addition or repeal, in the manner provided in this article.'

(2) 'That in clause (1) of article 304, for the words "an amendment" the words "a proposal for an amendment" be substituted.

(3) 'That in clause (1) of article 304, for the words "it shall be presented to the President for his assent and upon such assent being given to the Bill," the words "it shall, upon presentation to the President, be signed by him" be substituted.'

or alternatively,

'That in clause (1) of article 304, for the words "it shall be presented to the President for his assent and upon such assent being given to the Bill," the words "it shall upon presentation to the President, receive his assent" be substituted.'

(4) 'That in clause (1) of article 304, the words "to the Bill" occurring in the 11th line be deleted.

(5) 'That before the proviso to clause (1) of article 304 the following new proviso be inserted :—

'Provided that a period of not less than six months intervenes between the initiation of the Bill and its final passage in Parliament.'

Moving the amendments, Shri Kamath observed that the very changes that that article especially the proviso to the articles had undergone during the last two years proved to his mind, that the Constituent Assembly had changed its mind from time to time and added that if they had made several alterations like that within less than a year, then how on earth do they propose or do they dare to bind and fetter the future Parliament by making that more and more rigid than before. The proviso, as it was originally, he pointed out, comprised three items ; but subsequently it had clauses (a) to (e) and clauses (a) and (b) comprised so many different articles and chapters of the Constitution. The original article in the Draft Constitution comprised only the Lists in the Seventh Schedule, the representation of States in Parliament and the powers of the Supreme Court but as it stood then, it had had so much of accretion that one wondered if they could change their mind so often just because they could change in time, because so much time had been given to them, he pointed out and asked as to why the future Parliament also be not given the time and scope for changing the Constitution by making it more flexible ?

Shri Kamath then referred to an amendment which stood in the name of Pandit Jawaharlal Nehru, No. 3267 but regretted that that had not been moved, for he felt that if that had been moved, much of the objections to the rigidity of the Constitution might have been out of place.

Coming to his amendments, he said that the first, No. 3239, was an introductory clause, where the process of amendment was defined ; as to what was an amendment. He pointed out that every Constitution first of all defined what an amendment was as the article dealing with the amendment of the Constitution was one of the fundamental things that must be considered very carefully by the House. Although he appreciated the contention of several members that an amendment of the Constitution

should not be allowed to be made lightly or easily, he pleaded that for five years, when the transition was not complete and conditions had not settled down, they should allow it to remain flexible. To respond to social changes, he wanted the Constitution to be flexible.

Regarding his amendment No. 3241, Shri Kamath observed that that was a verbal change and would leave it to the collective wisdom of the Drafting Committee He did not wish to move amendment Nos. 3242 and 3246. Amendment No 3248, he said, related to the assent to be given by the President ; that was more or less a verbal and formal amendment, and as such would leave it to the Drafting Committee to be dealt with at the appropriate stage. Similarly, he said that he would leave amendment No. 3249. Amendment No 3250, he pointed out, referred to the period that should elapse between the initiation of a proposal to amend the Constitution in Parliament and its final passage in Parliament. He was proposing that six months should elapse between the initiation of a proposal and its passage through Parliament because they were not providing for a referendum or plebiscite on an amendment to the Constitution as was provided for in the Irish Constitution, he added

At this stage, the President drew attention to the inconsistency between his speech and the amendments he had given notice of and that his amendment No. 3250 had the effect of delaying the amendment of the Constitution for some time.

Shri Kamath then referred to the new proviso that had been embodied in the article moved by Dr. Ambedkar and said that the proviso had incorporated several chapters of the Constitution which did not find place in the draft of the 15th September. He was opposed to the amendment of the Constitution regarding the relations between the Union and the constituent units being made more rigid as there could be difficulty when there was need for unifying the country by a more unitary type of constitution. He, therefore, suggested to Dr. Ambedkar to revise that proviso so that the amendment Bill, even if not passed by the Legislatures of not less than half of the States, if repassed by Parliament for the second time, that would prevail.

Shri Naziruddin Ahmad who spoke next submitted that the rigidity which had been given to the Constitution by article 304 was very proper and that the citation of the English and other Constitutions was not appropriate, because they had had long experience and knew exactly what changes were to be made and what not. In the initial stages of the Constitution, they should rather be very strict about changing its terms, he added. Referring to Dr. Deshmukh's amendment No. 210 wherein he wanted to introduce a proviso to the effect that if any administrative difficulties arose, then on the report of the Supreme Court within the period of three years, amendments should be made rather easy, he sympathised with it and added that for a period of three years, amendments to remove difficulties and anomalies should be easy. The proviso may not be acceptable as it was, but the principle might be accepted and a suitable draft be adopted, he further added.

Acharya Jugal Kishore then spoke on his amendment No. 3261 of the printed list, Volume II. He said that as Jawaharlal Nehru's amendment had not been moved, he would like to suggest to Dr. Ambedkar to agree to the proposal that the Constitution could be amended for the next five years, by a simple majority of the Parliament and that his proposal or amendment would become applicable after the first five years. The reason for that suggestion, he gave was that they had passed the Constitution under very difficult political conditions and as such they had not been able to apply their minds fully to all the articles of the Constitution, and to their implications.

Shri Mahavir Tyagi emphasized that a Constitution which was unalterable was practically a violence committed on the coming generations. He said that he would give credit to the Drafting Committee and also to the House that the Constitution, as they had drafted it, was complete to the smallest details. 'We have done service for the coming generations with a view to facilitate their administration and their smooth running of governments by giving all the possible details we could' he added. He pointed out that it was a Constitution given by a majority party—the Congress Party—in the country. He pleaded that they should be fair to those parties which might come into power in future,

so that they might be able to make convenient changes in the Constitution. However, he held the view that it was but fair that in the matter of bringing about a change in important matters, such as those contained in Dr. Ambedkar's proviso, which guaranteed security to both individuals and States, there should be sufficient rigidity. He pointed out that it was in the main body of the article that Dr Ambedkar was too stiff, where he ought to have been rather flexible, namely, that a change could be brought about only if an absolute majority of the House and two-thirds of the members present in each House voted in favour. He argued that if the whole House was present then they needed 334 to vote in favour, because two-thirds should vote in favour. Even the minority parties would come in their full strength and would make it difficult for the bigger party to implement any change howsoever important that might be, unless their number was double the number of the minority party. Absolute majority of the House, he said, he could understand, but to make it compulsory that even among the members present two-thirds should vote in favour, meant that it would be too difficult to effect any change. He, therefore, submitted that some change as proposed by Dr. Deshmukh or Acharya Jugal Kishore would make it easy and enable the coming governments to make a change if they so required, otherwise the Constitution would become too rigid. He concluded by pleading that they should provide for a convenient change in the Constitution.

Babu Ramnarayan Singh observed that too many restrictions and conditions were being imposed with regard to the amendment of the Constitution by the future generations under the apprehension that radical amendments might be made in the Constitution by the future generations acting under rash and irrational impulses, which was not correct. He said that he failed to see the reason behind the provisions that the Constitution could be amended in future only by an absolute majority of the total membership of the House and a two-thirds majority of the members present and voting, besides in some cases, it being provided that the amendment could be effected by a two-thirds majority. He argued that it was the basic principle

of popular Government that all decisions were taken by a simple majority vote and that majority should truly reflect popular opinion. That requirement would be fulfilled if, as Dr. Deshmukh had proposed, the amendment should be effected by the President acting upon the simple majority vote of the people, he added. He supported the suggestion made by Shri Brajeshwar Prasad that the proposed amendment should be referred to the people by means of a plebiscite.

Shri R.K. Sidhwa expressed surprise at the argument that the amending procedure should be flexible. Referring to the remark of Shri Tyagi and Shri Jugal Kishore that up to five years they wanted a provision that the Constitution might be amended by a bare majority, he asked if they were going to treat the Constitution which they had drawn up after so much of discussion and deliberations in such a light-hearted manner. There might be flaws in it, there might be omissions in it, but could any Constitution anywhere in the world be perfect, he asked. He also refuted the argument that enough opportunity had not been given to members to express their views. Referring to Shri Tyagi's contention, he said that great pains had been taken to take in a good number of men who were non-Congressmen and that six out of seven members of the Drafting Committee including the Chairman were non-Congressmen. He was of the view that the Constitution should be more rigid. He supported the motion moved by Dr. Ambedkar.

Dr. B R. Ambedkar spoke on the general alternatives suggested by the various speakers that the Constitution should be made open for amendments by the future Parliament either by a simple majority or by a method which was much more facile than that embodied in article 304. Referring to the provisions which were contained in other Constitutions on the question of amending the Constitution, he began by telling the House that the Canadian Constitution did not contain any provision for the amendment of the Canadian Constitution in spite of the fact that the Constitution was framed as early as 1867 and that there had been a great deal of discontent over the various clauses in the Canadian Constitution including the interpretation given by the Privy Council on the provisions of the Canadian Constitution.

In the Irish Constitution there was a provision that both Houses by a simple majority might alter, or repeal any part of the Irish Constitution, provided that the decision of the Houses to amend, repeal or alter the Constitution was submitted to the people in a referendum and approved by the people by a majority, he observed. In the Swiss Constitution too, he added, the Legislature could pass an amending Bill, but that amendment did not have any operative force unless two conditions were satisfied ; one was that the majority of the cantons accepted the amendment, and secondly, there was a referendum also—in the referendum the majority of the people accepted the amendment. The mere passing of a Bill by the Legislature in Switzerland had no effect so far as changing the Constitution was concerned, he further added. In the Australian Constitution, he pointed out, the amendment should be passed by an absolute majority of the Australian Parliament. Then, after it had been so passed, it must be submitted to the approval of persons who were entitled to elect representatives to the Lower House of the Parliament. Then, again, it had to be submitted to a referendum of the people or the electors, he observed. A further condition was that that must be accepted by a majority of the States and by a majority of electors. Then in the U.S.A., he observed, the provision was that an amendment must be accepted by two-thirds majority of both Houses subject to the fact that the decision of both Houses by two-thirds majority must be ratified by the decision of two-thirds majority of the States in favour of the amendment. Dr. Ambedkar observed that he had cited the above facts in order to point out that in no country it was provided that the Constitution should be amended by a simple majority.

Turning his attention next to the provisions of the Constitution, Dr. Ambedkar said that they proposed to divide the various articles of the Constitution into three categories. In one category, he stated, that they had placed certain articles which would be open to amendment by Parliament by a simple majority. That fact unfortunately had not been noticed by reason of the fact that mention of that matter had not been made in article 304, but in different other articles of the Constitution, he contended. He then referred to some of them such as articles 2 and

3 which dealt wit he States. So far as the creation of new States was concerned or the re-constitution of existing States was concerned, he pointed out, that was a matter which could be done by Parliament by a simple majority. So also in respect of article 148A which dealt with the Upper Chambers in the Provinces, he added. Parliament had been given perfect freedom to either abolish the Upper Chambers or to create new Second Chambers in Provinces which did not have them, by a simple majority, he observed. Then in respect of article 213 which dealt with the States in Part II, the Constitution and their modification was left to Parliament to be decided by a simple majority, he said. Also Schedules V and VI. Others such as article 255, which dealt with grants and financial provisions, also left the matter subject to law made by Parliament, he observed. The provisions were 'until Parliament otherwise provides', he said and added, and therefore, in many matters, they had left things in the Constitution in a way which was capable of being amended by a simple majority. He observed : 'If my friends who have been persisting in the criticism that Parliament would have more extensive powers of amending or altering the Constitution by a simple majority had suggested to me a concrete case and referred to any definite article that they should also be put in that category, it would have been open to the Drafting Committee to consider the matter. Instead of that, to say that the whole of the Constitution should be left liable to be amended by Parliament by majority is, in my judgment, too extravagant and too tall an order to be accepted by people responsible for drafting the Constitution.' Therefore, he pointed out that the first point which he wanted to emphasise was that it was absolutely a misconception to say that there was no article in the Constitution which could not be amended by Parliament by a simple majority.

The second set of articles, Dr. Ambedkar said, were articles which required two-thirds majority. If the future Parliament insisted to amend any particular article which was not mentioned in Part III or article 304, all that was necessary for them was to have two-thirds majority of members present and then they could amend it.

Dr. Ambedkar subsequently explained as to why he had put

certain articles in a third category where for the purposes of amendment the mechanism was somewhat different or double (i.e.) it required two-thirds majority plus ratification by the States. He said that if Members of the House who were interested in that matter were to examine the articles that had been put under the proviso, they would find that they referred not merely to the Centre but to the relations between the Centre and the provinces. He observed that although they had in a large number of cases invaded provincial autonomy, they still intended and had as a matter of fact seen to it that the federal structure of the Constitution remained fundamentally unaltered. There was the distribution of legislative, executive and administrative authority, he observed and added that to say that even those articles of the Constitution which pertained to the administrative, legislative, financial and other powers, such as the executive powers of the provinces should be made liable to alteration by the Central Parliament by two-thirds majority, without permitting the provinces or the States to have any voice was altogether nullifying the fundamentals of the Constitution Very few articles were included in that proviso, he pointed out. Regarding article 43 which dealt with the election of the President, and article 44 with the manner of election of the President, he pointed out that it was the view of the Drafting Committee that the President, while no doubt in charge of the affairs of the Centre, none the less was the head of the Union and as such the provinces were as much interested in the election and in the manner of election as the centre was. Consequently, he added, they thought that that was a proper matter to be included in that category of articles which would require ratification by the provinces. He then referred to articles 60 and 142, the former relating to the extent of the executive authority of the Union and the latter with the extent of the executive authority of the States. Pointing out that they had laid down in the Constitution the fundamental proposition that executive authority would be co-extensive with legislative authority, he said that if for instance, the Parliament had the power to make an alteration in article 60, for extending its executive authority beyond the provisions or the limit contained in article 60, it would undoubtedly undermine or limit the executive

authority of the States as defined in article 142 and they, therefore, thought that that also was a fundamental matter and ought to require the ratification of the States.

Chapter IV, Part V dealt with the Supreme Court, he said, and added that there could be no doubt about it that the Supreme Court was a court in which both the centre and the provinces or the Units and every citizen of the country was interested, and it was, therefore, a matter which ought not to be left to be decided merely by a two-thirds majority. The same about the High Courts mentioned in Chapter VII of Part VI, he further added.

Chapter I of Part IX which was included in the third category, he pointed out, dealt with the distribution of legislative power, and (e) dealt with the lists of the Seventh Schedule and that nobody could deny that the Provinces had a fundamental interest in that matter and that they should not be altered without their consent. Similarly, the representation of the States in the Council of States which was dealt with in article 67, he stated.

Dr. Ambedkar contended that the Constitution was a fundamental document; that it was a document which defined the position and power of the three organs of the State; that it also defined the powers of the executive and the powers of the legislature as against the citizens, as they had done in their Chapter dealing with fundamental rights. In fact, he pointed out, the purpose of a Constitution was not merely to create the organs of the State but to limit its authority, because if no limitation was imposed upon the authority of the organs, there would be complete tyranny and complete oppression; that the legislature might be free to frame any law, the executive free to take any decision and the Supreme Court free to give any interpretation of the law, so much so there would be utter chaos.

The Constitution must be made open to amendment by a bare majority, for three reasons only *i.e.* if the Drafting Committee had prepared a draft which from the drafting point of view was bad, in which case he said that the Constituent Assembly could appoint another Drafting Committee or import a Parliamentary draftsman and submit the draft to him and ask him to find out

what defects were there ; the other ground was that if the Constitution makers had proceeded on some wrong principles and for which he said, that based as it was on the principles of parliamentary democracy, the principles embodied in it were as good as, if not better than, the principles in any other parliamentary Constitution ; the third ground was that if the Constituent Assembly was not a representative assembly in the sense the Members of it had not been elected on the basis of adult suffrage but not the further inference that if the Assembly had been elected on the basis of adult suffrage it was bound to possess greater wisdom and greater political knowledge. He concluded by saying that the article as proposed by the Drafting Committee was the best that could be conceived in the circumstances of the case.

The President then put Shri Kamath's amendments to vote. They were all negatived. Acharya Jugal Kishore subsequently did not move his amendment No. 3261.

Dr. Ambedkar's amendment No. 207 was then put to vote and that was adopted.

All other amendments to the article were negatived.

Dr. P. S. Deshmukh withdrew his amendment No. 212.

Finally the President put the proposed article as amended to the vote of the House. The motion was adopted and article 304, as amended, was added to the Constitution.

The article as adopted by the Constituent Assembly on 17th September, 1949 read as follows :

'304. An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill :

Provided that if such amendment seeks to make any change in—

(a) article 43, article 44, article 60, article 142 or article 213A of this Constitution, or

(b) Chapter IV of Part V, Chapter VII of Part VI, or Chapter I of Part IX of this Constitution, or

(c) any of the Lists in The Seventh Schedule, or

(d) the representation of the States in Parliament, or

(e) the provisions of this article,

the amendment shall require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Parts I and III of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.'

The article as modified and adopted by the Constituent Assembly was sent back to the Drafting Committee for being incorporated into the Constitution. The article was renumbered and with the revision of punctuation and small verbal alterations, appeared in the revised draft presented by the Drafting Committee to the President of the Constituent Assembly on 3rd November, 1949, thus :

'368. An amendment of the Constitution may be initiated *only* by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill :

Provided that if such amendment seeks to make any change in :—

(a) article 54, article 55, article 73, article 162 or article 241, or

(b) Chapter IV of Part V, chapter V of Part VI, or Chapter I of Part IX, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one half of the States specified in Parts A and B of the First Schedule by resolution to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.'

Further alteration, although consequential and minor, was made by the Constitution (Seventh Amendment) Act, 1956, Section 29 and Schedule, as a result of the States Reorganisation Commission's Report, to the effect that the words and letters 'specified in parts A and B of the First Schedule' be omitted. The article, in the present form appears as it was in the revised draft, with the deletion of the words 'specified in Parts A and B of the First Schedule'.

4

A Critical Survey of the Evolution of the Article

A survey of the story of the evolution of the article relating to the amending provision in the Indian Constitution would amply demonstrate the great labour that went into the formulation of a suitable article for the purpose. The task was by no means easy when particularly the framers of the Constitution had decided to make as detailed and elaborate a document as possible in view of the circumstances and peculiarities of the country. Constitutional precedents in this regard convinced the founding fathers of the fact that a too rigid a provision for making changes in the Constitution would retard growth and stand in the way of easy adjustment to socio-economic or other changes and that too flexible provision might result in frequent changes in the document for narrow and partisan ends. By and large, however, the desire was to achieve a flexible federation.

The members of the Union Constitution Committee, to whom the task of taking the initiative in the framing of the Draft article for constitutional change was entrusted, did not evince much enthusiasm in it although they were requested to answer a specific question in that regard in a questionnaire circulated to them by Sir B. N. Rau, the Constitutional Adviser together with a note on the amending procedure in some of the important constitutions of the world. In the only memorandum received in response to the Union Constitution Committee's call, Shri N. Gopalaśwamy Ayyengar and Sir Alladi Krishnaswamy Ayyar suggested a rather rigid proposal whereby any provision in the Constitution could be altered only if it was approved not only by two-thirds of the sanctioned strength of the two Houses of the Union Legislature,

wherefrom the Bill for the purpose should originate, but also by two-thirds of the Legislatures of the Units. Sardar K. M. Panikkar, a member of the Union Constitution Committee and who responded to Sir B. N. Rau's questionnaire, suggested a still more rigid provision in that that a constitutional proposal required not only the approval of two-thirds of both Houses of the Union Legislature but also the ratification of all the Legislatures of the Units. Shri S. P. Mookerjee, the only other member of the Union Constitution Committee who responded to Sir B. N. Rau's questionnaire suggested a provision similar to the one made by Shri Gopalaswamy-Krishnaswamy Ayyer in their joint Memorandum, with the difference that the ratification could also be done by a two-thirds of a conventional convention consisting of Members of the Lower House of Unit Legislatures either directly elected or indirectly chosen and that a Constitution amendment Bill could be initiated by one-fourth of members of either House of the Union Legislature.

That although the response from the Union Constitution Committee Members regarding suggestions for a draft constitutional revision clause was inadequate, nevertheless a few other proposals in that regard were also furnished by the Members of the Provincial Constitution Committee, to whom Sir B. N. Rau's questionnaire was circulated, besides the proposals contained in the Draft Constitution of India prepared separately by Shri K. M. Munshi and Prof. K. T. Shah. A noteworthy feature of the amending clauses suggested by the Members of the Provincial Constitution Committee was the association of the Unit Legislatures in the various stages of constitutional amendment. Thus for example Shri B. G. Kher suggested that the initiative in respect of any amendment to the Constitution might be taken by either the provincial legislature or by the Union Legislature while Shri Subbarayan held that the Constitution should be altered by an Act of the Union Legislature upon the recommendation of the Provincial Legislature. Shri B. G. Kher's proposal for adoption was similar to the one suggested by Gopalaswamy Ayyengar-Krishnaswamy Ayyar in their joint memorandum with the additional requirement of six months interval between the date of initiation of a constitutional amendment and its adoption.

Dr. Subbarayan, however, suggested a simple majority approval for constitutional amendment excepting in cases where minority interests were affected, such amendments should only be made if at least two-thirds members of the minorities concerned agreed to such amendment.

Shri K. M. Munshi, in his draft constitution for India, suggested a less rigid provision for amending the Constitution in that that a constitutional proposal could take effect if it was supported by two-thirds of the members voting in each House or a majority of the total membership of one House and a bare majority of the other in addition to a simple majority vote in the Legislature of a majority of States. The only stipulation that he made was that neither the proposition of representation of a State in the State's House could be diminished nor a constitutional amendment proposal in that regard be made without the consent of the Legislature of that State.

Prof K. T. Shah, in his draft constitution, suggested a more rigid and complicated procedure for the amendment of the Constitution. For the purpose of amendment, he divided the provisions of the Constitution into three different categories. In respect of all constitutional proposals, barring those relating to the redistribution of the boundaries of any existing component part or parts of the Union and except as regard the Fundamental Rights and Obligations of Citizens, he proposed initiation in the Legislature of the Union and adoption on approval of a majority of three-fifths of the total membership in either House of the Legislature in addition to ratification by all the Legislatures of the component parts of the Union by at least two-thirds of the total membership of each Legislature or either House of the Legislature in every case where there were two Houses. Regarding proposals for changing the boundaries or redistribution of areas, or regrouping the Units, he suggested initiation to vest in the Legislature of the Unit or Units concerned and adoption by an approval by a majority of two-thirds of the total members of either House of the Legislature of the Unit or Units concerned in addition to the approval of three-fifths majority of the total membership in either House of the Union Legislature. In the case of alteration or amendment of the Guaranteed Fundamental

Rights of Citizens and of Minorities, he, however, suggested direct reference to the people of the Union, made at the instance of the Head of the State and if accepted by a majority of atleast two-thirds of the total adult citizens or members of the Minorities concerned, it had to be ratified by the Union Legislature and the Legislatures of the component Units as in the case of any other amendment. It should be noted that in the case of boundary changes, redistribution of areas or regrouping of the Units where the initiation lay with the Unit Legislature the amending proposal to be effective required also the approval of all the component parts of the Union as in the case of general constitutional proposals. In order to avoid delaying tactics on the part of the Unit Legislatures, Prof. Shah suggested that if within a period of two years after the acceptance of the Union Legislature and the Head of the State, the requisite majority was not forthcoming, the Head of the State could refer the proposed amendment to the adult voters of the component part or parts of the Union concerned and if approved by a majority of the voters thus appealed to, the amendment would be declared to have been duly made. Prof. Shah also provided for, in his proposal, initiation of constitutional proposal by any legislature of any component part of the Union but all such proposals after adoption by the Legislature concerned had to be placed before the Union Legislature for its consent.

As the general desire of the Union Constitution Committee Members, whatever available, was in favour of a rigid provision for the amendment of the Constitution and as he had to prepare a self-contained memorandum in the form of a draft 'White Paper' which would be the basis of discussion for the Committee, Shri B N. Rau formulated an article similar to the one contained in the Joint Memorandum submitted by Shri Gopalaswamy Ayyengar and Shri Alladi Krishnaswami Ayyar, two important members of the Union Constitution Committee, with slight modifications. He, however, felt that a more flexible provision was required for the purpose, more particularly during the transition period. In this, apart from the dire need he felt for such a provision, he found that a convincing case in that regard lay in constitutional precedents such as in the Irish Constitution

(article 51) and in the Government of India Act, 1935 (section 310). He, therefore, put in the Transitional Provisions of the Memorandum, a removal-of-difficulties clause enabling Parliament to make 'such adaptations and modifications' as might be necessary during the first three years of the coming into force of the Constitution. So keen was his desire and so strong his conviction for a more easy method of constitutional alteration during the first three years of the coming into existence of the Constitution that he not only incorporated it in his October Draft Constitution and also wrote to the President of the Constituent Assembly in that regard after consultation with legal luminaries abroad on 18th November 1947 that the provision was regarded by them as 'a wise precaution' but harped on that theme twice later in the following year, although the suggestion did not find favour with the Drafting Committee. On the first occasion in a letter addressed to Dr Rajendra Prasad, in June 1948, he stressed the need for making the Constitution flexible in order to solve difficult questions like minority demands and the pressure for linguistic provinces and provide for easy amendments during the year. Citing again the advice of De Valera on the subject, he pointed out that in order to avoid the anomaly that a constituent Assembly, not elected by adult suffrage, could draft a constitution by a simple majority which a Parliament elected by adult suffrage could not amend it except by the special majorities, followed in some cases, by special ratification, they should provide for during the first five years that the constitution might be amended by the ordinary process of law-making. On the second occasion, in a special article contributed by him to the Independence Day issue of the *Hindu* on 15th August, 1948, he wrote as follows :

"I must, however, notice, in conclusion, what appears to me to be a valid criticism of the amending procedure embodied in the draft constitution. The present Constituent Assembly has been elected by the provincial legislative assemblies and other bodies not based on adult suffrage and some of the members have not been elected at all but nominated. According to the draft, the constitution, as enacted by the constituent Assembly, cannot be amended by the Parliament of the Union except by a special

difficult process, requiring special majorities and in some cases special ratification by the legislatures of the Units, although the Union Parliament will be a body almost entirely elected on the basis of adult suffrage It seems rather illogical that a constitution should be settled by a simple majority by an assembly elected indirectly on a very limited franchise and that it should not be capable of being amended in the same way by a Parliament elected and perhaps for the most part elected directly by adult suffrage. The Irish Constitution, as enacted in 1937, contained a provision empowering Parliament to amend it by the ordinary law-making process during the first three years (subject to a referendum, if the President after consulting the council of States —a kind of Privy Council—so directed). Certain Irish authorities whom I consulted on this matter in December last strongly advised that we should have a similar provision in our constitution for at least the first five years. Apart from the logical justification for such a provision, we have to bear in mind that conditions in India are rapidly changing, the country is in a state of flux politically and economically ; and the constitution should not be too rigid in its initial years."

The Union Constitution and the Union Powers Committee which took up for consideration Shri B.N Rau's draft relating to the amending procedure in Part X made certain important changes with a view to rendering the Constitution less rigid and permit of constitutional changes more easily. They felt that the majority required at the two different stages were on the high side and therefore, reduced them. That instead of 2/3rds of the total number of members of the Federal Parliament requiring to pass a Bill, which might not presumably, in actual practice, be possible in view of party strength as also the average attendance of Members at the sessions of Parliament, they suggested 2/3rds majority of members present and voting. Similarly for purposes of ratification by the units of Federation, the number was reduced from 2/3rds to 1/2. An explanatory para was also added to define the meaning of the word "unit" used in the clause.

The Joint Committee, however, was not quite satisfied with the phraseology and general content of the ratification part of the

clause although they had added an Explanatory para to it and hence decided to get that part examined by a sub-Committee of the Union Constitution Committee. The Sub-Committee, after examination of the clause, besides suggesting the retention of the Explanatory clause in part X of the memorandum on the Indian Constitution embodying the recommendations of the Union Constitution Committee clarified that the ratification of the amendment to the Constitution should be by a majority of the legislative of each class of units, that is, the provinces, the Federated States and when States were grouped together to form a Unit, such groups of States. Attention should be drawn at this juncture to a reference made in the Minutes of Proceedings of the Sub-Committee on Amendment of the Constitutions to a letter from Shri Khaitan making certain suggestions regarding the ratification of the amendment of the Constitution by the Units. What these suggestions were is not exactly known since the letter could not be traced in the collections of constitutional papers available.

The Union Constitution Committee which met the next day to consider its sub-Committee's Report made very important changes in the clause Two important questions that were agitating the minds of the Members, namely, the question of the type of majority approval—whether it should be "two-thirds of the total number of members" as proposed by Gopalaswami Ayyengar and Alladi Krishnaswami Ayyar in their Joint Memorandum or it should be only two-thirds of majority of members present and voting—and the question of ratification by the component units, if required for every type of constitutional amendment in view of the difficulty involved in such a process, once again came to the fore. As there seems to have been expressed strong views, particularly by Sir A. Krishnaswami Ayyar, Sir N. Gopalaswami Ayyengar and Sardar K.M. Pannikar for a more rigid provision and others, by and large for a more flexible provision, a compromise was arrived at accommodating the two different view points. For all matters, excepting three matters specified in the article, the Committee decided that there should be a double majority, namely, "a majority of the total membership of the House" instead of "2/3rds of the total membership" as proposed in the Joint Memoranda of Sir A. Krishnaswami Ayyar and Sir N. Gopalaswami

Ayyengar, besides "two—thirds of the members present and voting', instead of"a majority of members present and voting", as proposed by the Members of the Union Constitution and Union Powers Committee at their Joint meeting of 30th June 1947 and that for such a category of amendments there was no need for ratification by the legislatures of the component units. However, in respect of three matters, namely, (a) changes in the Federal Legislative list ; (b) representation of Units in the Federal Parliament ; and (c) powers of the Supreme Court, they decided that that should be passed in each House of the Federal Parliament as required in other cases but also the ratification "by the legislatures of units representing a majority of the population of all the Units of the Federation in which Units representing at least one-third of the population of the Federated States are included."

It should be pointed out in this connection that right from the beginning it was felt that the question of formulating a suitable amending clause should be the function of the Union Government and as such was left to the Union Constitution Committee and the Union Powers Committee. However, as the Constitution of India envisaged a constitution not only for the Union Government but also for the exponent parts and a separate Provincial Constitution Committee was constituted and to it also was circulated the Questionnaire of Sir B.N. Rau seeking expression of opinion by its members regarding the method of constitutional amendment to be incorporated in the Constitution of India that was to be framed and that some of the members of the Provincial Constitution Committee had even suggested the initiation of constitutional proposals by the legislatures of the Provinces or at least its active association in the process, opinions were justifiably expressed for giving provincial legislatures some essential power for amending the Constitution of the Province at least. To them the power of ratification only and that too restricted to only three matters appeared to be a poor consolation. Besides, it appears that the power of amending any part of the Constitution during the first three years of the working of the Constitution being solely conferred on the Union Parliament was too much for the champions of the provinces to stomach. So

much so, on 31st July, 1947 when the President of the Constituent Assembly suggested the taking up for discussion of part X, of Shri B.N. Rau's Memorandum on the Indian Constitution containing proposals for amendment, Shri N. Gopalaswami Ayyengar requested its postponement on the ground that some additional thought had to be given to the amending clause with a view to providing the provincial legislatures "some constituent power" for amending the Constitution of the Province

A more pressing demand, however, was the providing for adequate safeguards for minorities, more particularly the reservation of seats to them in the Parliament and the constituent legislatures. The Union Constitution Committee could not give thought to that question presumably because it was working under great pressure and to a certain extent because it felt unnecessary to provide for a "very elaborate and rigid scheme" of amending clause. Shri B.N. Rau, all the same, added a proviso in this regard, to the clause proposed by the Union Constitution Committee, in the draft article 232 of his October 1947, Draft Constitution.

The Drafting Committee which met to discuss Sir B.N. Rau's draft article 232 relating to the amending provision, on 6th, 9th and 10th February, 1948 apart from making certain important changes in respect of ratification requirement of the component state legislatures, inserted "a provision giving a limited constituent power to the State Legislatures in respect of certain defined matters." At the first meeting of the 6th, held for the purpose, wherein besides Dr. B.R. Ambedkar, Sir A. Krishnaswami Ayyar, Maulvi Saiyid Mohd. Saidullah & Sir N. Madhava Rao were present, the Drafting Committee, retained article 232 of the Draft as such except numbering the operative part as clause (1) and the proviso as clause (3) and making certain changes in phraseology. They, however, interposed clause (2) empowering either House of the State legislature to initiate a Bill for making any change in chapter III of Part VI of the Constitution in relation to any State for the time being specified in Part I of the First Schedule and enabling adoption when such a Bill was passed by the legislature or legislatures of a majority of the total membership of the House or Houses, ratified by Parliament with a majority of the total

membership of that House and assented to by the Governor. An explanation to the article clarified the meaning of the expression 'population'.

On the second day, the drafting committee, apart from certain verbal changes made two important alterations. By the first it enlarged the scope (a) of the proviso to clause (i) by including all the Lists of the Ninth Schedule as against the Union List only. The second alteration was the inclusion in clause (2) a specific provision enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of the Constitution relating to the number of Houses in the Legislature of such State and was thereafter ratified by Parliament by an absolute majority. A clarification was also made in respect of the phraseology, relating to ratification in clause (1). The complex and rather confusing idea contained in that long sentence was split up and the latter part of the provision was put under a separate proviso. It now meant clearly that for ratification while the Legislatures of the States representing a majority of the population of all the States for the time being specified in Parts I and III of the First Schedule was necessary, care should be taken to include in it States for the time being specified in Part III of the First Schedule representing at least one-third of the population of all the States for the time being specified in that Part. A minor correction was also made in clause (2), a mistake that might have presumably crept in by oversight, and that was in respect of the word 'Governor' occurring at two places towards the end of the clause. It should have been the President instead of the 'Governor' as the proposal after being ratified by the Parliament was naturally to be placed before the President and not the 'Governor'. Hence the word 'President' was substituted for the word 'Governor'. Clause (3) was however, retained in the form in which it was before.

On the third day, the drafting committee made further changes mostly in the phraseology. In the ratification part of clause (1) distinction made between States on the basis of population was removed and the part relating to ratification was simplified so that ratification now vested, irrespective of their population, on the legislatures of not less than one-half of the States for the time

being specified in Part I of the First Schedule and the legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule. Initiation powers to the State Legislatures, regarding amendment proposals, in an additional matter was given in respect of the method of choosing a Governor, if it was decided to adopt the proposition that the Governor of the State would be elected by direct vote of all persons who had the right to vote at a general election for the Legislative Assembly of the State in preference to his appointment by the President. An explanatory clause was also appended to the article to signify that where a group of States was specified in Part III of the First Schedule, the entire group would be considered as a single State for the purposes of the proviso to clause (1) of the article.

Subsequently, before the Drafting Committee presented its Report to the President of the Constituent Assembly, they decided to separate clause (3) from the other two clauses of the article and constitute it into an independent article on the ground that it related more to safeguards for Minorities rather than to the amending procedure as such. Since the Explanatory part of the original article related to clause (1), the same was then shifted to follow Clause (2). Thus when the Drafting Committee presented its Report to the President of the Constituent Assembly on 21st February, 1948, clauses (1) and (2) of Sir B.N. Rau's draft article 232, together with the Explanatory part, appeared as article 304 and clause (3) as article 305, although they were inclined to put both the articles under the same Part, Part XVI, entitled 'Amendment of the Constitution'.

Article 304 as formulated by the Drafting Committee appeared to be still unsatisfactory even to this Committee. The inclusion of certain matters only in the proviso to clause (1) gave rise to the question as to why a few more could not be included. It was questioned as to why a distinction was made between amendments relating to the powers of the Supreme Court and those relating to the High Courts ; that while the former required ratification on the part of the States, the latter did not. Expression was also made to the fact that as the power to amend

the Constitution referred to in Clause (2) of article 304 was a concurrent power and might be exercised either under clause (1) of that article or under clause (2), a clarification in the phraseology used was required. It was also argued that when the State Legislatures specified in Part I of the First Schedule could be given the constituent power to introduce a Bill in their Legislatures relating to the number of Houses of the Legislature that they would have as to why the States specified in Part II of the First Schedule also not be given similar power or at least it was ensured that the provision which empowered the President to create or continue a local legislature in any State specified in Part II of the First Schedule was not altered unless it was ratified in the manner prescribed in the proviso to clause (1).

In the meantime a Special Committee of the Constituent Assembly was appointed to scrutinise the Draft Constitution and the amendments to the various articles, to which notices were given. The Constitutional Adviser, Sir B.N. Rau, also examined the various amendments and made available his comments on them.

The special Committee which scrutinised the Draft Constitution decided that the Governor should be appointed directly by the President and that as such all references to the exercise of functions by the Governor in his discretion should be omitted from the Draft Constitution. The result of this decision was the omission of reference to the 'method of choosing Governor' in clause (2) of the article, thereby restricting the constituent power of the State Legislatures in respect of initiation of amending Bills to a single matter, namely, the changes in respect of the number of Houses that a State Legislature would have, but that power, as was evident from clause (1), could also be exercised by the Union Government The Drafting Committee noticing this gave notice to an amendment as follows :

465. That in clause (2) of article 304, after the word 'may' (in line 2 of page 150 of the Draft) the word 'also' be inserted,

arguing that it should be made clear in the article itself that as the power to amend the Constitution referred to in clause (2) was a concurrent power inasmuch as that power could be exercised

under both clauses (1) and (2) of article 304. The Special Committee agreed to this change and accepted the above amendment, rejecting, however, another amendment of the Drafting Committee to the effect 'that in clause (2) of article 304, the words' the method of choosing a Governor or 'be omitted' (Amendment No. 464) on the plea that it had decided that the Governor should be appointed directly by the President. It should be pointed out in this connection that subsequent to the acceptance of this amendment by the Special Committee it was felt that a more appropriate place for the clause would be in Chapter III of Part IV relating to State Legislatures and hence the necessary transfer of this clause was effected, with the result that Clause (1) alone with the proviso was all that was left of the article relating to the amending process proper. As the Explanatory Part of article 304 related to clause (2) that was also removed from article 304.

Further changes in article 304 were contemplated by the Drafting Committee on scrutiny of the article. It was found that the discrimination made between States in Part I and States in Part III of the First Schedule for purposes of ratification, namely, that while in the former, Legislatures of not less than one-half of the States were required to ratify, in the latter, it was only one-third of the States, was undesirable Therefore, the Drafting Committee felt that the ratification requirement of both classes of States should be the same and that that should be, one-half of the States both in Parts I and III of the First Schedule. This was sought to be achieved by the notice of an amendment they had given in amendment No. 1?8. It should be pointed out in this connection that the removal of this distinction was also sought by Shri. T.T. Krishnamachari, and Shri R.R. Diwakar and Shri S.V. Krishnamurthy Rao, jointly, in their notices of amendments. Shri T.T. Krishnamachari's amendment notice No. 32?8 read as follows :

> 'That in clause (1) of article 304, for the words 'one third' in line 22, the word 'one-half' be substituted.

The latter's joint notice of amendment No. 3259 stated :

> 'That in the proviso to clause (1) of article 304, for the words 'Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being

specified in Part III of that Schedule' the words 'Part I of the First and Third Schedules' be substituted'.

Shri Krihnamurthy Rao had also drawn attention to the fact in his observations on the Motion regarding the Draft Constitution and placed for its removal in the following words :—

'I submit that this difference between the States and the Provinces as regards the number of votes should be done away with. Equal rights should be given to the States and the Provinces as far as the amendments to the Constitution are concerned.'

The Drafting Committee also appreciated the case for the inclusion of provisions relating to High Courts in Chapter VII of Part VI, in the Proviso to the article on the ground that the provisions relating to the High Courts belonged to the ambit of States' jurisdiction on and as such changes in the provisions relating to them should not be effected without the States' consent. Besides, it also stood to reason that for proposes of constitutional changes the provisions relating to the Constitution, powers, etc., of the High Court stood at the same level as the provisions relating to the Constitution, powers, etc., of the Supreme Court and that when the latter was put in the proviso, the former should also be there. Notice of amendment in this regard was jointly given by Shri K. Santhanam, Shri M. Ananthasayanam Ayyengar, Smt. G. Durgabai and Shri T.T. Krishnamachari. Their amendment, No. 467 of List I read as follows :

'That for sub-clause (e) of the proviso to clause (1) of article 304, the following be substituted :

'The Constitution or powers of the Supreme Court or the High Courts'.

Commenting upon the above amendment the Constitutional Adviser in his Notes on the Amendmentst o the Draft Constitution of India observed :

'There is no objection to the amendment provided its effect is clearly understood : for eg., under article 201, Parliament can make laws regulating the jurisdiction of any High Court in regard to matters in the Union List. If, in the exercise of

this power Parliament makes such a law, it will not be amending the Constitution, but merely exercising powers given by the Constitution. Accordingly, the operation of article 304 of the Constitution will not be attracted and no ratification by the State Legislatures will be necessary. If this is clearly understood, the amendment may be accepted.'

However, as the Drafting Committee was thinking on similar lines and had already made up their mind with regard to the inclusion of provisions relating to the High Courts not only of States in Part I of the First Schedule as contained in Chapter VII of Part VI, but also in respect of the new provisions made subsequent to the presentation of the Drafting Committee's Draft Constitution, in article 213A regarding the constitutional set-up of High Courts in Part II of the First Schedule as was evident from the notice of an amendment that three members of the Drafting Committee, namely, Dr. B. R. Ambedkar, Shri N. Madhava Rao and Saiyid Mohd. Saidullah, had jointly given as follows :

'That for sub-clause (c) of the proviso to clause (1) of article 304, the following be substituted :

'(e) the constitution or powers of the Supreme Court or the High Courts'.

Article 304 of the Draft Constitution came up for consideration before the Constituent Assembly on the 17th September, 1949, (i.e.) eighteen months after the Drafting Committee had presented the Draft Constitution to the President of the Constituent Assembly. During this intervening period the Members of the Constituent Assembly and the Drafting Committee members gave considerable thought not only to the subject-matter of the article but also to its phraseology Some of the members expressed the view that the procedure was rigid and hence suggested more simple methods ; while some others took the stand that the procedure envisaged was not rigid and hence advocated more rigid ways. Quite a few prominent Members besides the Constitutional Adviser, Shri B.N. Rau, took the stand that although they had no objection to the procedure suggested by the Drafting Committee for the amendment of the Constitutions, they would recommend for some years in the initial period, easier way.

A couple of members suggested that the proposal of the Drafting Committee be given an honest trial for some time and thereafter reviewed for purposes of changes, if need be. Shri K. Santhanam was one of those who felt that a rigid Constitution was far more important for stability than flexibility and ease in changing the Constitution. He put across this view, while speaking on the Motion regarding Draft Constitution, on 6th November, 1948, in the following words :

> 'It is provided that the change can be effected only in one sitting by a certain majority of both Houses. I think in the matter of a Constitution changes should not be allowed easily, because political parties may come into power owing to sudden changes in national feeling. The Constitution should be considered as the spinal chord If it is more flexible than necessary and if it is altered every now and then, simply because a party has got majority in the legislature, then the whole basis of democracy will go to pieces. I think, therefore, the provisions regarding changes in the Constitution require to be carefully thought-out Changing the Constitution should not be made eas . At least if the changes on most important matters are vested in the Parliament, I would suggest that it should be not only by a large majority than the actual majority, but that it should be done at least twice over after an interval of six months or one year. We may thus ensure that the changes in the Constitution are brought about with a full realisation of the consequences We shall not change our Constitution hastily. Canada has not changed her Constitution ever since it was set up. Has she suffered for it ? The United States of America changes its Constitution only very rarely.'

He added :

> 'I think a rigid constitution is far more important for stability than flexibility and ease in changing the Constitution. The constitution is the bone-work of our freedom, and bones must be rigid rather than flexible.'

Shri S. V. Krishnamurthy Rao, on the other hand, represen-

tative of the other extreme view, contended that the power to amend the Constitution should be made as flexible as possible, more particularly on the ground that the integration of smaller Units into bigger Units was still going on and that bringing about uniformity between the States and the Provinces was still going on. Thus, he expressed, while speaking on the Motion regarding the Draft Constitution, as follows :

> 'As regards the power to amend the Constitution, I do not agree with my Hon'ble friend, Shri Santhanam, that it should be rigid. It should be as flexible as possible because the integration of smaller unit into bigger units is still going on and bringing about uniformity between the States and Provinces also is still going on. Perhaps it will take some time before there is some sort of uniformity between the various units of the Federation and during the initial period it should be as easy as possible for the future Parliament to amend the Constitution to suit the circumstances of the time. The power to amend the Constitution shall be made flexible.'

Pandit Jawaharlal Nehru, while advocating a more flexible approach, particularly in the matter of effecting changes in the Constitution was keen on specifying in the article itself, a period of years during which changes to the Constitution could be easily made without any difficult process for the very important reason, amongst others, that the new Parliament that would be chosen under the provisions of the Constitution, after it had come into effect, would be more representative than the existing Constituent Assembly and hence should have an easy opportunity to make such changes as it wants to. He gave expression to this view during his observation on the Draft Constitution. He said :

> 'While we want this Constitution to be as solid and as permanent a structure as we can make it, nevertheless there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop a Nation's growth, the growth of a living vital organic people. Therefore, it has to be flexible. So also, when you pass this Constitution you will and I think it is proposed to, lay down a period of year —whatever that period

may be—during which changes to that Constitution can be easily made without any difficult process That is a very necessary proviso for a number of reasons. One is this : that while we, who are assembled in this House, undoubtedly represent the people of India, nevertheless I think it can be said, and truthfully, that when a new House, by whatever name it goes, is elected in terms of this Constitution, and every adult in India has the right to vote—man and woman – the House that emerges then will certainly be fully representative of every section of the Indian people. It is right that that House elected so—under this Constitution of course it will have the right to do anything—should have an easy opportunity to make such changes as it wants to. But in any event, we should not make a Constitution such as some other great countries have, which are so rigid that they do not and cannot be adapted easily to changing conditions. Today especially, when the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow. Therefore, while we make a Constitution which is sound and as basic as we can, it should also be flexible and for a period we should be in a position to change it with relative facility.'

It should be recalled in this connection that the Constitutional Adviser, Sir B. N. Rau, had given expression to a similar feeling, the differences between the two being with regard to the exact place in the Constitution where the provision should be made, the number of years for which such a provision should be made and the extent of the applicability of the provision so made. This is evident on comparison between the provision that Shri B N. Rau had made in his October 1947 draft, in clause 238 as a transitional provision, and the notice of amendment that Pandit Jawaharlal Nehru had given (No. 3267 of the Printed List) to the Draft Constitution which read as follows :

'That after clause (2) of article 304 and before the Explanation, the following new clause be inserted :

'(3) Not withstanding anything contained in clauses (1) and (2) of this article any of the provisions of this Constitution

except the provisions of this article and of article 305 may be amended by Parliament by law, whether by way of variation, addition or repeal, within a period of five years after the commencement of this Constitution.'

That whereas Sir B. N. Rau wanted the provision to be made under the transitory provisions i.e. separately, for a period of three years, Pandit Jawaharlal Nehru had wanted it to be put into the main body of the amending clause and that for a period of five years, after the suggestion made by De Valera to Shri B. N. Rau while the latter had held consultations with the Irish President during his tour abroad and about which he had written to Shri Nehru. The fundamental difference between the two was, however, that whereas Shri Rau wanted a more flexible and a simple method during the transitional period for all the provisions contained in the Constitution, Pandit Nehru had excepted the matters contained in articles 304 and 305 during the period of adoption of a simplified procedure. So strong was his advocacy of enabling constitutional changes to be effected by a simple majority of Parliament, during the transitional period, of any provision of the Constitution that he expressed disapproval of the exceptions made by Pandit Jawaharlal Nehru, in his Notes on the Amendment to the Draft Constitution, in the following manner :

'The process of amending the Constitution during the first few years should be made easier than is provided for in this article. In the first place, to mention only one eg., the pattern of the Indian States is undergoing rapid change, and one cannot say with confidence that the Constitution will not have to be continually altered at least during the initial years to fit the constantly changing pattern. Other problems too may arise requiring frequent amendment of the Constitution. The Constitution should not therefore be too rigid during the first few years. Secondly, we have to remember that the present Constituent Assembly is not based on adult suffrage, the members having been elected by the various legislatures which, in their turn, were elected on a very restricted franchise. The Parliament of the new Union of India on the other hand, will be based on adult suffrage. If a Constituent Assembly based on

a restricted franchise can by a simple majority, frame the original Constitution, it is illogical to lay down that the Constitution so framed shall not be amended by a Parliament based on adult franchise except in some cases by a difficult process involving special majorities and in some cases special ratifications. Thirdly, it may be mentioned that Mr. De Valera attached very great importance to a provision in the Irish Constitution which permitted amendment by the ordinary process of law making during the first few years after its commencement

For these reasons amendment No. 466 (The same amendment of Pandit Nehru which was so numbered in List I of Amendments) is negatived.'

It is worthy to note further that the amendment of Shri Jawaharlal Nehru was patterned after clause 1 of article 51 of the Irish Constitution, with the change of period and reference to the question of commencement. However, the provision in the subsequent clause (clause 2) of the Irish Constitution empowering the President to refer amendment under that article to a referendum, with a view to preventing Parliamentary excesses under that article made all the difference. It was, perhaps, because no provision was thought of to be made for referendum in the matter of constitutional amendment, and in the absence of such a provision empowering Parliament to alter the Constitution by a bare majority during the transitional period might be conferring on it unbridled power, that the proposal was not given the attention that it needed.

Notice of amendment similar to the proposal made by Pandit Jawaharlal Nehru, with slight alterations was given by Shri Shankar Rao Deo and Acharya Jugal Kishore : Their amendment (No. 3261) ran as follows :

'That the following additional proviso be added to clause (1) of article 304 :

'Provided that for the first three years after the commencement of the Constitution, an amendment of the Constitution other than an amendment of the nature specified in clause (a), (b), (c) and (d) to the first proviso above may be

initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.'

A desire to subject all the provisions of the Constitution to a simpler amending procedure, similar to the one sought by Sir B.N. Rau in his transitional provision but to be incorporated into the body of article 3' 4 as pleaded by Pandit Nehru, with minor modifications in respect of majority requirement and the period of its applicability, was manifest in the amendments moved, separately by Smt. Renuka Ray and Shri Damodar Swarup Seth. The former in her amendment (No 3266 of the printed list) wished the addition at the end of article 304, a new proviso to the following effect :

'Provided further that in case an amendment to the Constitution is sought to be made within five years, from the date the Constitution comes into force, a simple majority of the members of each House shall be sufficient to pass the amending Bill.'

The latter in his amendment (No. 3251 of the printed list) sought the insertion before the existing proviso to clause (1) of article 304, a provision to the following effect :

'Provided that during the first ten years after the commencement of this Constitution the Bill shall not require the consent of a majority of two-thirds of the members of each House of Parliament, present and voting.'

The Members of the Drafting Committee and in particular Dr. B. R Ambedkar felt that such a provision in respect of the amending procedure was hardly necessary in view of the easy procedure that they had suggested for practically all the provisions of the Constitution, barring a few, or at least they were not quite convinced of the argument advanced that because the Constituent Assembly would be less representative than the future Parliament, an easier method would be preferable. Thus Dr. Ambedkar in

his speech while introducing the motion on the Draft Constitution observed :

> 'It is proposed that the Constitution should be amendable by a simple majority at least for some years. The argument is subtle and ingenious. It is said that this Constituent Assembly is not elected on adult suffrage while the future Parliament will be elected on adult suffrage and yet the former has been given the right to pass the Constitution by a simple majority while the latter has been denied the same right. It is paraded as one of the absurdities of the Draft Constitution. I must repudiate the charge because it is without foundation.
>
> 'What is said to be the absurdity of the amending provision is founded upon a misconception of the position of the Constituent Assembly and of the future Parliament elected under the Constitution. The Constituent Assembly making a Constitution has no partisan motive. Beyond securing a good and workable Constitution it has no axe to grind. In considering the Articles of the Constitution it has no eye on getting through a particular measure. The future Parliament if it met as a Constituent Assembly, its members will be acting as partisans seeking to carry amendments to the Constitution to facilitate the passing of party measures which they have failed to get through Parliament by reason of some article of the Constitution which has acted as an obstacle in their way—Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament. That explains why the Constituent Assembly though elected on limited franchise can be trusted to pass the Constitution by simple majority and why the Parliament though elected on adult suffrage cannot be trusted with the same power to amend it.'

It would not be inappropriate to point out at this juncture that it was for the above reason that although the Drafting Committee had retained the removal-of-difficulties clause and the transitional provision as suggested by Sir B. N. Rau in his October Draft, yet it did not provide for easy amendment. Further, it

might not be totally incorrect to surmise that it was because Pandit Jawaharlal Nehru was to a great extent convinced of Dr. Ambedkar's reasoning that he did not move his amendment No. 3267 of the printed list (originally No. 466). It should be qualified 'to a great extent' because that although he did not move the initial-period-easy-procedure amendment, Pandit Nehru was not fully convinced that such a procedure was altogether unnecessary as he gave pronouncement to it some time later.

Now to revert to the opinions on the amending procedure, an analysis of the notices of amendments given would amply demonstrate the desire on the part of the majority of members to make the amending provision more difficult, either by increasing the majority requirement or by the addition of more matters in the proviso to the article coming under the States' ratification requirement, if not to maintain the status quo and review the procedure after some years of its trial. Those who desired a larger majority requirement were, Kazi Syed Karimuddin in his notice of amendment No. 3245 ; Shri H. V. Kamath, Pandit Thakurdal Bhargava, Shri Achint Ram and Shri Deshbandhu Gupta in their joint notice of amendment No. 3246 ; and Shri Brajeshwar Prasad in his notice of amendment No. 3260. Kazi Karimuddin's amendment required :

> 'That in clause (1) of article 304, for the words 'by a majority of not less than two-thirds of the members of that House present and voting' the words 'by a majority of all the Units of the Federal State be substituted' or after the word 'voting' the words 'or quorum of four-fifths of the total members of the House' be inserted.'

The joint amendment No. 3246 required :

> 'That in clause (1) of article 304, for the words 'two-thirds' the words 'three-fourths' be substituted,

and Shri Brajeshwar Prasad's amendment read as follows :

> 'That the proviso to article 304 be altered so that the amendment shall also require to be ratified by the Legislatures of not less than two-thirds of the States for the time being specified in Part I of the First Schedule and the Legislatures

of not less than one-half of the States for the time being specified in Part II of that Schedule.'

A more rigid procedure for amendment by the inclusion of more items to the proviso to clause (1) of article 304 was suggested by Shri K. Santhanam, Shri M. Ananthasayanam Ayyangar, Smt. G. Durgabai and Shri T. T. Krishnamachari, in their joint notice of amendment No. 3255; by Shri Brajeshwar Prasad, in his notice of amendment No. 3256; Shri Shanker Rao Deo and Acharya Jugal Kishore in their notice of joint amendment No 3257 and Shri R. R. Diwakar and Shri S. V. Krishnamurthy Rao, in their joint notice of amendment No. 3259. Amendment No. 3255 required :

'That in the proviso to clause (1) of article 304, the following new sub-clause be added :

(d) any provisions of Part III, Part VI, Part IX, Part X or Part XVI.'

Amendment No. 3256 stated :

'That the following new-clause be inserted in the proviso to article 304 :

(d) any of the provisions contained in Part III.'

while Amendment No. 3257 wanted :

'That after sub-clause (c) of the proviso to Clause (1) of article 304, the following new sub-clause be inserted :—

(d) the provisions embodied in Part I, II and III of the Constitution.'

Amendment No. 3259 sought as follows :

'That in the proviso to clause (1) of article 304 for the words 'Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule' the words 'Part I of the First and Third Schedules' be substituted and the following be inserted as a new para :

(d) in any of the provisions contained in Part III.'

Commenting on amendment No. 3255, which applied to the other two amendments also, Shri B. N. Rau in his Notes on amendment to the Draft Constitution observed :

'This amendment involves a question of policy. If this amendment is accepted, it shall be re-drafted as follows :

(1) In sub-clause (b) of the proviso to clause (1) of article 304, the word 'or' be omitted ;

(2) At the end of sub-clause (c) of the proviso to clause (1) of article 304, the word 'or' be inserted ;

(3) After sub-clause (c) of the proviso to clause (1) of article 304, the following clause be inserted :—

(d) any of the provisions of Part III, Part V, Part IX, Part X of Part XVI of the Constitution

It may, however, be pointed out that Part VI of the Constitution would include also the provisions with respect to High Courts. If this amendment is accepted, the reference to High Courts sought to be included in sub-clause (c) of the proviso to clause (1) of article 304 by amendment No. 467 (in the original List but subsequently No. 3254 in the final List) should be omitted.'

Incidentally Shri B. N. Rau also remarked that the amendment No. 3259 (originally 469) was not clear and presumably it was intended to provide by that amendment that ratification by the legislatures of not less than one-half of the States for the time being specified in Parts I and II of the First Schedule (not Part I of the First and Third Schedules) shall be required.

While the above amendments and the sponsors thereof wished greater rigidity in the matter of constitutional changes, Constituent Assembly members like Shri Tajamul Hussain and Shri Mohd. Tahir Saiyid Jafar Imam felt that the existing provision was too rigid and hence it should be rendered more flexible. That objective was sought to be achieved by the former in the notice of amendments that he gave in Nos. 3243 and 3252. While through the former, he sought the deletion of the double majority requirement in clause (1), through the latter he sought the deletion of the proviso itself. The amendments ran as follows :

'3243. That in clause (1) of article 304, the words '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' be deleted.'

'3252. That the proviso to clause (1) of article 304 be deleted.'

Shri Mohd. Tahir Saiyid Jafar Imam sought to achieve greater simplicity and flexibility by lesser majority requirement alone. His notice of amendment No. 3264 ran as follows :

'That in clause (2) of article 304, for the words 'total membership of the Assembly or each House' the words 'members of the Assembly or each House, present and voting' be substituted and for the words 'total membership of that House' the words 'members of that House present and voting' be substituted.'

A similar purpose was also sought to be achieved by Shri Purushottam Das Tandon through his amendment No. 3244, which ran as follows :

'That in clause (1) of article 304, the words 'and by a majority of not less than two-thirds of the members of that House present and voting' be deleted,

and further through the proposal for a revision of the Constitution by the Parliament after the lapse of few years 'in such manner as Parliament may prescribe'. The notice of amendment in that regard, No. 3245, ran as follows :

'That for the substantive part of clause (1) of article 304, the following be substituted :

'After the lapse of three years from the date on which the Constitution is enforced, the Constitution may be revised by the introduction of a Bill for the purpose in either House of Parliament and in such manner as Parliament may prescribe.'

The proposal of Shri Purushottom Das Tandon for Constitutional revision by the Parliament after the lapse of few years draws attention to the notice of amendment given by Pandit Gobind Malaviya for incorporating into the amending clause a provision for setting up of a Commission to review the working of the Federal and Provincial Constitutions, after the expiry of first five years of their working. The amendment No. 3268 was as follows :

'That the following be added as clause (3) or article 304 :

'(3) Notwithstanding the previous clauses of that article, once, on the expiry of the first five years of the working of the Federal and Provincial Constitutions now being adopted, the Federal Government shall set up a Commission to review their working and to suggest such changes therein as may be deemed suitable and desirable in the light of practical experience gained and public opinion expressed in the country ; and the recommendations of this Commission shall be placed before the Union Parliament and decisions taken upon them by simple majority.'

From the foregoing account it is evident that considerable thought was given to the amending clause by the members of the Constituent Assembly subsequent to the publication of the Draft Constitution. The Members of Drafting Committee themselves subjected article 304 to further security and, on the basis of that as also on the basis of observations made and the notices of amendments given by the members of the Constituent Assembly, gave notices of amendments desiring to make further alterations in the article. Their proposals for alterations were contained in two amendments, namely, Nos. 118 and 207 (List III-Eighth week) and stood in the name of Dr. B. R. Ambedkar. The former read as follows :

'304. An amendment of the constitutions may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House 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, it shall be presented to the President for his assent and upon such assent being given to the Bill the Constitution shall stand amended in accordance with the terms of the Bill.

Provided that if such amendment seeks to make any change in

(a) any of the lists in the Seventh Schedule ; or

(b) the representation of States in Parliament ; or

(c) chapter IV of Part V, Chapter VII of Part VI, and article 213 A of this Constitution,

the amendment shall also require to be ratified by the legislatures of not less than one-half of the States for the time being specified in Parts I and III of the First Schedule.'

A glance at the above amendment would show two important alterations in the article as framed originally by the Drafting Committee, namely, the addition of provisions relating to High Courts, not only of States in Part I of the First Schedule, but also of States in part II of the same Schedule and the removal of discrimination between Parts I and III of the First Schedule in the matter of ratification.

Some time after the notice of the above amendment was given and perhaps convinced of need for further additions to the proviso to clause (1) as was mostly contained in the notice of amendment jointly given by Shri K. Santhanam, Shri M. Ananthasayanam Ayyengar, Smt. G. Durgabai and Shri T. T. Krishnamachari. (No. 157 of the original list and No. 3255 of the consolidated list) the Drafting Committee gave notice of amendment No. 207 seeking to add further to provisions to clause (1) relating to the Election of the President and the manner in which it was done (Art. 43 and 44) ; the extent of the executive powers of the Union and the States (Arts. 60 and 143) ; legislative relations between the Union and the States only ; and the amending procedure itself. It was also felt necessary to specify in the article itself the mode of expression of the States ratification and that being done before the presentation of the Bill for the Presidential assent. Amendment No. 207 read as follows :

"That in amendment No. 118 of list III (Eighth Week) for the proviso to the proposed article 304, the following priviso be substituted :

"Provided that if such amendment seeks to make any change in :—

(a) article 43, article 44, article 60, article 142 or article 213A of this Constitution, or

(b) chapter IV or Part V, chapter VII of Part VI or chapter I of Part XX of this Constitution

(c) any of the lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the legislatures of not less than one-half of the States for the time being specified in part I and III of the First Schedule by resolutions to that effect passed by those legislatures before the Bill making provision for such amendment is presented to the President for assent."

Dr. Ambedkar, on behalf of the Drafting Committee, explained that the principle followed in choosing articles to be put under the requirement of two-thirds majority plus ratification by the States, while replying to the discussion on article 304 in the Constituent Assembly on 17th September, 1949, was to make rigid the alteration of vital provisions of the Constitution, such as those relating to the Centre as also to the relations between Centre and the Constituent Units but at the same time seeing to it that they did not make inroads on the theme of the Federal Constitution (i.e.) the distribution of powers between the Centre and the Units, by preventing the provinces or the States having a say in such matters. He thus observed :—

'If Members of the House who are interested in this matter are to examine the articles that have been put under the proviso, they will find that they refer not merely to the Centre but also to the relations between the Centre and the provinces. We cannot forget the fact that while we have in a large number of cases invaded provincial autonomy we will intend and have as a matter of fact seen to it that the federal structure of the Constitution remains fundamentally unaltered. We have by our laws given certain rights to the provinces and reserved certain rights to the centre. We have distributed legislative authority ; we have distributed executive authority ; and we have distributed administrative authority. Obviously to say that even those articles of the Constitution which pertain to the administrative, legislative, financial and other powers, such as the executive powers of the Provinces should be made liable to alteration by the Central Parlia-

ment by two-thirds majoirty, without permitting the Provinces or the States to have any voice is in my judgment altogether nullifying the fundamentals of the Constitution." (1661)

Dr. Ambedkar then pointed out how that principle was scrupulously followed and great care was taken in making choice of articles to be included in the category of articles requiring ratification by the Provinces. He justified the inclusion of articles 43 and 44 relating to the election and the manner thereof, of the President on the ground that although the President was in charge of the affairs of the Centre, since he was the Head of the Union (which included both the Centre as well as the Provinces) the Provinces were as much interested in the purpose as the Centre was. In respect of articles 60 and 142 he observed that as they had laid down in the Constitution the fundamental proposition that excutive authority would be co-extensive with the legislative authority, which meant that if for instance, the Parliament had the power to make an alteration in article 60 for extending its executive authority beyond the provisions or the limit contained in article 60, it would undoubtedly undermine or limit the executive authority of the States as defined in article 142, they felt that that also was a fundamental matter and ought to require the ratification of the States. The justification for the inclusion of the provisions relating to Supreme Court was that it was a Court in which the citizens of the entire country were concerned *i.e.* that it was not only a Court for the Centre but also of the Provinces as the Constitution envisaged a common judiciary constructed on a hierarchical pattern. The self-same reasoning led to the inclusion of High Courts. Since changes in the distribution of legislative power contained in chapter I of part IX or the lists of the Seventh Schedule or the representation of the States in the Upper House of the Parliament dealt with article 67, would affect both the Centre as well as the provinces and in turn would nullify the fundamentals of the Constitution, they were also, Dr. Ambedkar pointed out, included in the category requiring ratification by the States.

It is to be noted that neither the Drafting Committee nor Dr. Ambedkar gave reasons for the need for specifying in the

article itself, the mode of expression of the States' ratification as also the necessity of that expression being made available before the Bill making provision for such amendment was presented to the President for his assent. All the same it is not difficult to surmise the probable reasons for such specification. It was probably felt that the mode of expression of the States' ratification by passing resolutions would afford greater flexibility and ease for obtaining States' consent than by any other method. It was implicit that the State Legislatures had the discretion in the matter of procedure to be adopted for purposes of ratification but that their consent or otherwise should be stated through resolutions. The need then for the addition of the words 'before the Bill making provision for such amendment is presented to the President for assent' was to emphasise the fact that such category of amendment Bills that required ratification by the States could not be presented to the President for his assent unless they were so ratified. In other words, it was incumbent upon the President not to give assent to the Bill unless and until half the State Legislatures by appropriate Resolutions had approved of the amendment passed by Parliament. Besides as it was found not quite desirable to stipulate explicitly any time-limit within which the States ought to ratify, it was perhaps sought to fix a time-limit, through the provision, implicitly. It could be that the objective of the clause is to cut down the time-lag of a constitutional proposal requiring ratification by the States between its parliamentary approval and presidential assent. In other words, the Drafting Committee's intention, probably, was that such a provision would prevent delay in the passage of a Bill by the State Legislatures which Parliament had approved, merely because the power of ratification was vested in them.

Dr. Ambedkar moved amendments Nos. 118 and 207, when the Constituent Assembly took up for consideration article 304 and in the discussion that followed all the members that participated, with the exception of Shri R. K. Sidhwa, who held that the Constitution should be rigid and hence justified, the provision made in article 304, urged for greater flexibility at least during the initial period of the working of the Constitution. Dr. P. S. Deshmukh, Shri Brajeshwar Prasad, Shri H. V. Kamath and

Acharya Jugal Kishore, even moved their amendments, the notices of which they had given earlier. Dr. P. S. Deshmukh moved three amendments, the purpose of one of which was to provide flexibility to the amending procedure by cutting down the two-thirds majority requirement, retaining only the 'majority of the total membership requirement' ; the purpose of the second was also to achieve flexibility through Parliament's approval by a simple majority during the initial period of three years from the commencement of the Constitution, the arguments advanced being that though they had spent many months making the Constitution, there were still many defects in it besides contradictory provisions in some places which would be more and more apparent when the provisions were interpreted ; and the purpose of the third was to prohibit amendment of Part III of the Constitution with a view to infringing, restricting or diminishing the scope of any individual rights or property rights. Shri Brajeshwar Prasad also moved three amendments, the purpose of the first of which was to provide flexibility in the manner as was required by Dr. P. S. Deshmukh's first amendment ; the purpose of the second was to provide flexibility to facilitating easy changes in the Lists contained in the Seventh Schedule ; and the purpose of the third was to substitute ratification by referendum to ratification by the constituent Units of the Federation on the ground that provincial governments constituted vested interests and since referendum was democratic, cured potent defects in party governments, was a clear recognition of the sovereignty of the people, and would be a strong weapon for curbing the absolutism of a party possessed of a Parliamentary majority. Further in the speech that he made, he suggested that at least for a period of ten years from the commencement of the Constitution, the method of amending the Constitution should be made easy on the grounds that they were living under abnormal conditions as a result of partition and that they were passing through a period of decadence. In that connection, he quoted Dicey to say that the immutability of the Constitution in France was the ground of excuse for its violent subversion ; that if the inflexibility of French Constitutions had provoked revolution, the flexibility of English Constitution had at least once saved them from violent

overthrows and that rigidity, in short, of a Constitution tended to check gradual innovation, but that because it impeded changes might, under unfavourable circumstances, occasion or make possible revolutions. It should be pointed out in this connection that Shri Brajeshwar Prasad's two other amendments, the notices of which he had given, intended practically the opposite viewpoint. While his amendment No. 3266 required the addition of the provisions contained in Part III also for States' ratification, his amendment No. 3260 stressed the need for higher proportion of States' ratification requirement. It was perhaps because of that reason he did not move those amendments.

Shri H.V. Kamath moved 5 of the 7 amendments, of which he had given notice (i.e.) amendments No. 3239, 3241, 3248, 3249 and 3250. That while the second, third and fourth amendments sought merely verbal changes, his first one was meant to be an introductory clause similar to the one contained in the Irish, South African, Australian, and several other Constitutions, defining as to what an amendment was and the last one was meant to serve the purpose of a referendum by providing a reasonable time lag for a proper and adequate consideration of a Constitution amendment Bill. It should, however, be pointed out that the last amendment which had the effect of delaying the amendment of the Constitution for some time was inconsistent with the speech that he had made wherein he pleaded that for five years, during the initial period, they should allow the provision, in respect of constitutional changes, to be flexible. Of the two other amendments, the notices of which he had given, but did not move, one of them (No. 3242) sought that a constitutional bill should only be initiated at the House of the People alone and the other proposed to make the amending procedure rigid by raising the majority requirement of the members present and voting from two-thirds to three-fourths. It would not be out of place here to quote the arguments of Shri Kamath while pleading for a flexible constitutional revision provision. Firstly, he said :

> 'If we can change our mind so often (referring to the frequent changes made in the amending clause, more particularly in

the proviso) just because we can change in time, because so much time had been given to us, why not give the future Parliament also the time and scope for changing the Constitution by making it more flexible.'

Secondly, he said :

'When a storm breaks, it is the flexible little plants, the blades of grass that withstand a storm. They do not break because they bend, they are flexible. But the mighty trees that stand rigid break, and they are uprooted in a storm.'

Acharya Jugal Kishore moved his amendment No. 3261 which sought to achieve flexibility in the matter of amending procedure by suggesting for the first three years a simple majority approval. In his speech, however, he talked of five years on the grounds that they had been under heavy pressure of work, under political pressure and also the conditions prevailing in the country. It should be recalled that the above amendment was similar to amendment No. 3267 which stood in the name of Pandit Jawaharlal Nehru with the difference that he had excepted only clauses (a) to (d) instead of the entire proviso plus article 305 as was sought by the former. Shri Jawaharlal Nehru, however, did not want his amendment to be put to vote.

Shri Naziruddin Ahmad (although at the outset considered proper the rigidity of article 304 and held that at the initial stages they should be strict about changing its terms), Shri Mahavir Tyagi and Babu Ramnarayan Singh who participated in the discussion advocated greater flexibility in the matter of constitutional amendment ; the first, through the requirement of a bare majority only during the initial period, for the removal of difficulties and anomalies ; the second, by the deletion of 'the two-thirds members present and voting' clause ; and the third, a bare majority always as that was the basic principle of a popular Government, but that should be truly reflective of popular opinion. Attention should be drawn to the suggestion of Babu Ramnarayan Singh which was inconsistent with his concept of flexibility requiring passage of constitution amendment bills by a simple majority to the extent that the Bill was to be referred to the people by means of a plebiscite, which certainly was a rigid and cumbersome procedure.

A close study, therefore, of the discussion in the Constituent Assembly of article 304 on 17th September, 1949, would indicate that the amending clause appeared to be defective inasmuch as :

(a) that the provisions in the Constitution could be altered by a bare or a simple majority of Parliament ;

(b) that the provisions in the Constitution could not be altered by a bare or a simple majority of Parliament at least during the initial period ;

(c) that the Legislatures of the States were associated in the process of amendment ;

(d) that there was no provision for referendum ;

(e) that there was no specification of a time-lag either between the notice of an amending Bill and its actual introduction, of particularly between the introduction and the final adoption of an amending Bill ; and

(f) that it did not prohibit amendment of the provisions contained in Part III of the Constitution or at least protected it by its inclusion in the category of those matters the alterations of which required ratification by the States.

It should be pointed out at this juncture that although Dr. Ambedkar gave direct and convincing answers to the first two issues only in his speeches made either at the time of the discussion on the motion regarding the Draft Constitution or while replying to the discussion on article 304 in the Constituent Assembly on 17th September, 1949, implicit in his speeches in the approach to the whole question of the type of amending provision that would be appropriate to the Constitution envisaged, were the answers to the other issues raised.

On the question of 'simple or bare majority' procedure, Dr. Ambedkar's arguments against generally and in particular, in respect of the Indian Constitution, were two-fold—negative and positive. Positively, he observed that the nature of a written Constitution as such warranted a rigid procedure i.e. the Constitution was a fundamental document defining not only the

position and power of the three organs of the State but also the powers of the executive and the legislature as against the citizens, as was contained in the chapter dealing with the fundamental rights and its purpose was not merely to create the organs of the State but also to limit its authority because if no limitation was imposed upon the authority of the organs, there would be complete tyranny and complete oppression ; that the legislature might be free to frame any law, the executive free to take any decision and the Supreme Court free to give any interpretation of the law, causing thereby utter chaos. Further, he contended that the Constitution must be made open to amendment by a bare majority, for three reasons only : firstly, if the Drafting Committee had prepared a draft which from the drafting point of view was bad, in which case, he said that the Constituent Assembly could appoint another Drafting Committee or import a parliamentary draftsman and submit the report to him and ask him to find out what defects were there in it ; secondly, that if the Constitution-makers had proceeded on some wrong principles, to which his answer was that based as it was on the principles of parliamentary democracy, the principles embodied in it were as good, if not better than, the principles in any other parliamentary constitution ; and thirdly, if the Constituent Assembly was not a representative assembly, to which he said that he was prepared to accept the argument that the Assembly was not a representative Assembly in the sense that the members of it had not been elected on the basis of adult franchise but not the further inference that if the Assembly had been elected on the basis of adult suffrage, it was bound to possess greater wisdom and greater political knowledge. Negatively, citing the amending procedure followed in some of the important constitutions of the world, he held that in no country it was provided that the Constitution should be amended by a simple majority.

Then with regard to the plea that during the initial period at least provision should be made for effecting constitutional changes by simple majority, one would only recall the answer that Dr. Ambedkar gave for the arguments that were adduced on that behalf then, while he spoke during the discussion on the motion regarding the Draft Constitution. Shri Kamath,

however, in his speech of the 17th Sept. 1949 disputed the contention of Dr. Ambedkar, that the constitutional status of the Constituent Assembly of any country was superior to any future Parliament of that country. He held that the Constituent Assembly of India elected as it was on a restricted franchise and indirectly by the Provincial assemblies on separate elections could not be superior to the future Parliament elected on adult franchise, on a direct basis. Shri Mahavir Tyagi also questioned the representative character of the Constituent Assembly. He held that it was the Congress Party that gave the Constitution and that in making it others had not been heard properly. Rebutting Shri Tyagi's contentions, Shri R. K. Sidhwa held that the Constituent Assembly was representative of all interests in the country and that the Constitution was drawn up by a Drafting Committee whose six of the seven members, including the Chairman were non-Congressmen. To meet further argument such as that as they had passed the Constitution under very difficult political conditions and as such they had not been able to apply their minds fully to all the articles of the Constitution and to their applications, although there is no basis for the latter part of that contention at least in view of the subjection and consequent alterations in about every stage of its scrutiny by several committees, the answer was provided by the Drafting Committee's addition of amendment of the amending clause itself in the proviso (e) to article 304, so that the desired objective could be achieved. That the above presumption, namely, that proviso (e) was added to meet the rather persistent demand that there should be a simplified amending procedure during the initial period seems to be reasonably correct, in the absence of any observation in that regard, as otherwise it would be difficult to justify the addition of that clause at that late stage, as an amendment to the proviso (No. 207) to amendment No. 188, moved by Dr. Ambedkar on 17th September, 1949.

It could be gathered from the speeches of particularly Shri Brajeshwar Prasad and Shri H. V. Kamath that this item and others in amendment No. 207 were put in sometimes between 14th and 16th September, 1949 since Kamath mentioned of the absence of the provisions which they received on the 15th Septem-

ber (p. 1653) and Shri Brajeshwar Prasad records the receipt of amendment No. 207 on the night of 16th September.

Further then, the demand to exclude the provinces from the process of effecting constitutional changes is untenable as the framers envisaged one Constitution that would include both the Centre as well as the provinces. The evolution of the draft articles in the previous chapter would show as to how originally the provinces were excluded and how later on the provinces were associated for the above reason.

As regards the exclusion of the provision relating to referendum, the answer again was simple. Constitutional precedents had shown that wherever the principle of referendum was in vogue great difficulties were experienced for effecting constitutional changes. Besides the rigidity that it imparted, the referendum procedure was cumbersome and costly and, in a country like India where apart from other factors, there was high percentage of illiteracy, undesirable too. Referendum procedure appeared to be incompatible with the objectives of flexible methods of constitutional alterations thought of for the Indian Constitution.

Regarding the question of time-lag, it was presumably felt that such stipulations were unnecessary both for ordinary as well as vital provisions of the Constitution ; for ordinary because that might stand in the way of effecting constitutional changes by Parliament, however urgent that be and for vital provisions, because the procedure involved itself was of such a nature that considerable time would be taken for the passage. Besides it was felt that as a Bill for changing the Constitution was an important matter, certain amount of time-lag for thought being given to it was implicit.

Finally, in regard to the need for a clause prohibiting changes to be effected in Part III of the Constitution, relating to Fundamental Rights, it should be said at the outset that none associated with the framing of this article made any specific observations regarding Fundamental Rights vis-a-vis the amending process although the question of the inclusion of the part relating to Fundamental Rights in the proviso to article 304 or its exclusion from the amending process came up several times,

more particulary the former, in the form of notices of amendments to article 304. Shrl Brajeshwar Prasad in his amendment No. 3256 ; Shri Shankari Rao Deo and Acharya Jugal Kishore in their amendment No. 3257; Shri K. Santhanam ; Shri M. Ananthasayanam Ayyengar, Smt. G. Durgabai and Shri T. T. Krishnamachari in their joint amendment No. 3255 ; and Shri R. R. Diwakar and Shri S. V. Krishnamurthy Rao in their joint amendment No. 3259, had all sought the inclusion of Part III in the Proviso, while Dr. P. S. Deshmukh in his amendment No. 212 desired a prohibitory clause in respect of Fundamental Rights. Part III, however, did not find a place in the proviso. Dr. Ambedkar's passing reference to Part III admitting for a while that he intended it, which is not so, as we shall see subsequently eliminates the other possibility. He observed on the 17th September as follows :

> "If the future Parliament wishes to amend any particular article which is not mentioned in Part III or article 304, all that is necessary for them is to have two-thirds majority."

That would mean an amendment to chapter III would not require a specified majority. The inference, therefore, is that the chapter on Fundamental Rights is as much subject to revision by a simple Parliamentary majority as most of the provisions in the Constitution. If the above inference is accepted, it stands to reason that for purposes of Constitutional changes, Part III would not warrant a privileged status of being exempt from changes through amendments. Further, attention should also be drawn to the fact that at the end of the discussion in the Constitutent Assembly on 17th September, 1949 regarding article 304, when the various amendments were being put to vote, Dr. P. S. Deshmukh withdrew his amendment No. 212 relating to Fundamental Rights indicating thereby that he was convinced of the fact that Part III did not require the status that he had sought for.

5

Analysis of the Amending Process Envisaged under Article 368

Before an analysis of the Amending Process envisaged under article 368 is done, it should be stated at the outset that an amendment of the Constitution as such cannot be effected except under the procedure contained in Article 368. That was the reason why the framers of the Constitution had provided an exclusive part for the purpose with the appropriate title 'Amendment of the Constitution'. Two different procedures are prescribed for the amendment of the various articles of the Constitution under article 368 and therefore there is no provision in the Constitution that cannot be amended by either of the procedures envisaged under it. It is contended in some quarters that article 368 is not exclusive for purposes of amendment of each and every provision of the Constitution and that the applicability of article 368 for purposes of amendment of the Constitution is limited. This is based on three arguments, namely : 1) that article 368 does not qualify the expression 'this Constitution' in the substantive part either by the words 'Any provision of' or 'All the provisions of' ; 2) that articles 2 and 3, 169 and 239A and Schedules Five and Six could be amended by Parliament in the ordinary legislative capacity and as such do not come under the purview of amendment for purposes of article 368 ; and 3) that Dr. Ambedkar for purposes of amendment classified the various articles of the Constitution into three categories and those articles which could be amended by a simple majority of Parliament do not come under the purview of amendment for purposes of article 368.

Now the answer to the first argument would be provided automatically if we could meet the second and third arguments and establish that the provisions mentioned therein also come within the ambit of article 368 for the purpose of amendment of the Constitution since the interpretation of the expression 'this Constitution' as being limited in character is based on the exceptions provided for under arguments (2) and (3). We have already noted that although articles 2, 3, 169/, 239A and Schedules Five and Six could be amended by a law of Parliament, specific mention is made that the amendments so effected shall not be 'deemed' as an amendment for the purpose of article 368. That merely shows that if an amendment of the above-mentioned articles was desired that could only be done under article 368 despite the fact that the law made by Parliament in respect of them had a similar effect. In other words, an amendment of the above-mentioned articles could only be effected under article 368 and that the specific power given to Parliament to amend those articles could itself be amended by article 368. These articles, therefore, constitute no exceptions to article 368 but on the contrary come under them.

As regards the observation of Dr. Ambedkar that there is a category of articles of the Constitution which could be amended by Parliament by bare majority and therefore the inference that that category is excluded from the purview of amendment for the purpose of article 368, it should be said that what Dr. Ambedkar said that there was a category of articles which could be 'amended' by Parliament by bare majority and that specific mention was of such category was not made in article 368. This did not mean by any stretch of imagination that for the purposes of amendment that those articles which could be 'amended' by a bare majority did not come within the scope of article 368. Actually speaking it was not the intention of Dr. Ambedkar, by categorising the articles of the Constitution into three types, to exclude these articles that could be amended by a bare majority from the purview of article 368 but merely to establish the flexible character of the Indian Constitution. Opinion was expressed in certain sections of the Constituent Assembly that for the purpose of amendment of the Constitution a rigid procedure was prescrib-

ed under article 368 and resort to it for making even minor changes would be difficult. It was in answer to that that he observed that there was a category of articles that could be amended by Parliament by bare majority and the articles that he mentioned in that regard were—2 and 3 ; 148A (about Upper Chambers—169 of the Constitution) ; 213 (about the creation or continuance of local legislatures or Council of Advisers—since deleted) ; Schedules V and VI ; article 255 (about grants from the Union to certain States—Article 275 of the Constitution) and provisions that stated 'until Parliament otherwise provides'. That Dr. Ambedkar did not mean to exclude articles that could be 'amended' by a bare majority of Parliament from the ambit of article 368 meant exclusively for the purpose of amendment of the Constitution is evident from the amending provisions he cited from other Constitutions of the world and said 'that in no country was it provided that the Constitution should be amended (of course in parts or in its entirety) by a simple majority'. Even otherwise a casual look at the articles which Dr. Ambedkar had pointed out as belonging to the category which could be amended by Parliament by a simple majority, which number about 80 articles and four Schedules, would show that what is conferred on Parliament in respect of those provisions is the power to make 'law' and not the power to 'amend' them. The expressions used in those provisions are : 'Parliament may by law prescribe' (article 22 (7) for example), 'Parliament may by law confer' (article 138—1), 'Parliament may by law determine' (article 33), 'Parliament may by law provide' (article 343—3), 'Parliament may by law indemnify' (article 34), 'unless Parliament by law otherwise provides' (article 133—3), 'Subject to the provisions of any law made by Parliament' (article 137), 'Until otherwise provided by Parliament' (article 73—2) 'shall derogate from the power of Parliament to make any provision' (article 11), 'as may be determined by Parliament by law' and, until provision in that behalf is so made' (article 65—3), 'Until provision is so made by Parliament by law' (article 149), 'Until Parliament by law otherwise provides' (article 171—2), Parliament may by law establish' (article 231), 'Parliament may by law extend or exclude' (article 230), 'Save as otherwise provided by Parliament' (article 239) and 'Save in so far as Parliament may by law

otherwise provide' (article 287). All the above articles are either transitory in nature or in a formative stage so much so Parliament is empowered by 'law' to fix them up in the constitutional framework. As such none of them can be regarded as conferring the power of amendment of the Constitution. Most of these articles continue until provision is made by law made by Parliament. But some of them continue until or unless provision is made by law by the State Legislatures (articles 189(3), 194(3), 195, 210(2) and 345) ; and these articles cannot possibly confer power of amendment, for the State legislatures under the Constitution are not empowered to amend the Constitution. For purposes of amendment recourse must be had to article 368 alone and the socalled power to amendment by law given to Parliament by a bare majority could itself be amended by article 368. Therefore, in effect, it could be said that any provision or all the provisions of the Constitution could only be amended under article 368 of the Constitution and consequently the expression 'this Constitution' in the substantive part of article 368 means 'any provision' or 'all the provisions'.

From the observations contained in the preceding paragraphs it should be said that the framers of our Constitution have not imposed any limitations or restrictions on the amending power to be exercised under article 368 of the Constitution, as is the case in certain Constitutions of the world. In these Constitutions the amending clause itself specifically provides the matters that are exempt from the power of amendment. An analysis of constitutional provisions in this regard show that this restriction is invariably confined to one important aspect, namely to the form of Government. Thus the Constitutions of Brazil (Article 217(6), Dominican Republic, the French Republic/ the Italian Republic ; and Turkey forbid alterations in the republican form of Government, the Constitutions of Cambodia, Laos and Libya forbid the alterations of the monarchical and representative forms of Government and the Constitution of Greece prohibits alteration in the regime as a crowned democracy. Five Constitutions, namely, Cambodia, Laos, Libya, Egypt and the Federal Republic of Germany have kept the fundamental rights guaranteed under the Constitution beyond the reach of the amending process ; two

Constitutions, namely, Libya and Egypt speak of succession to throne as a matter which cannot be subjected to amendment. Under the Constitutions of U.S.A., and the Federal Republic of Germany, the equal representation guaranteed to the States in the Senate and the 'organisation of the Federation into Laender and the basic cooperation of the Laender in legislation', the former without the concurrence of the States concerned, respectively cannot be amended. The Constitution of Norway does not lay down any specific limitation to the amending power but speaks more generally that 'alterations must never be inconsistent with the principles of this Constitution, but must only bear on such modifications of particular provisions as do not change the spirit of this Constitution.'

Now coming back to the question of procedures, two different procedures are normally necessary—one for the amendment of the more basic provisions and the other for the basic ones—to render flexibility to a federal Constitution which has otherwise a tendency to become rigid but under the Indian Constitution it became inevitable as a single constitutional document outlines the Constitution for the Union as well as for the constituent Units. The difference between the two procedures is not very great inasmuch as that while the initiative procedure is common to both, one set of articles of the Constitution to be amended requires ratification by the constituent units of the Indian Union whereas the other set of articles does not.

According to article 368 there is only one way by which an amendment proposal could be initiated and that is through the introduction of a Bill in either House of Parliament. Other methods of initiative common in certain Constitutions, such as the vesting of the power with the people as under the Constitutions of Switzerland, Uruguay and Cuba ; or by a convention summoned by the federal legislature consequent on the request of legislatures of constituent units as, under the Constitution of the U.S.A. ; or by vesting it with the President of the Republic as under the Constitutions of Korea, Lebanon, Peru and Syria ; or by vesting it with the King in monarchical governments such as in Cambodia, Libya, Egypt and Sweden ; or by vesting it with the legislatures of constituent units as in the case of Venezuela ; or by vesting it

either with the Prime Minister or with the Presidents of the two Houses as in Cambodia; or with the Council of the King as in the case of Laos, have been deliberately omitted. The popular initiative in the matter of constitutional amendments can bear fruitful results only in a small country with a high percentage of literacy and not for a big country such as ours with comparatively less political maturity and a lower literacy percentage although we have provided for adult franchise under the scheme of the Constitution. That the area of the country and the size of the population had refrained the framers of the Constitution of the U.S.A., for instance, from providing the initiative power with the people is illustrative of the above contention in respect of the area and population of a country. The requirement of a fairly high literacy percentage as also political maturity in matters of initiation of constitutional amendments is obvious and needs no elaboration. Further since no amendment has been added to the Swiss Constitution through the process of popular initiative, nor to the German Republican Constitution by a similar device, it may be asked as to whether the loss is serious. At any rate, no one officer or group of officers has a monopoly of the amending power, as is the case wherever the amending power of a constitution is vested in legislatures alone.

As for the omission of the Convention method similar to the one obtaining in the U.S.A. it could be said that that alternative for the initiating constitutional amendment in the U.S.A. has not been resorted to till date and for all practical purposes seems to be unnecessary. Further, the need for conferring the power of initiative with the constituent units of the federation in the U.S.A. became necessary as the constitution of the U.S.A, unlike the Indian constitution, concerns itself only with the federal part leaving the federating units to frame and adopt their own constitutions. Also as the federating states at a convention drafted the U.S. Constitution it was felt necessary that the States should also have the power of proposing alterations in the Constitution that they had framed. The Indian Constitution on the other hand, was framed by the representatives of the people of India meeting for such a purpose and drafting a single constitution for the Union as well as for the constituent units. At

the initial stage of constitution framing it was felt that the power of initiative might also be vested with the legislatures of the constituent units but was soon given up, presumably because of various types of constituent units, their varying stages of development as also the differences in their forms of government.

Regarding the power of initiative being vested in the Chief Executive it was felt that the scheme of the office of the President under the Indian Constitution did not warrant initiative being vested in his hands and hence that method was also left out. Thus it could be said that the non-availability of alternatives other than the one provided for in the Indian Constitution for purposes of initiating constitutional amendments is neither a serious limitation nor a valid criticism. It may be argued that the provision of alternative methods of initiative inter alia, can facilitate easy adjustments to changing needs or lend the necessary flexiblity to written and federal constitutions which by its very nature tend to be rigid. On the contrary, the way the only initiative procedure provided for in Article 368 affords an amount of flexibility, one can dare say, in that objective which no other constitution with one or more alternatives can. Constitutional amendment proposals, under Indian Constitution can be introduced by any one member of Parliament acting in his individual capacity. This is in sharp contrast with the difficult requirement of a minimum number of members that may enable a constitution amendment possible in most of the other constitutions of the world. Further, the sole method of initiation vested in the hands of members of parliament through an introduction of a Bill anticipated a similar procedure for ordinary as well as constitution amendment Bills. It is, however, required that the initiation of a Bill introduced for amending the Constitution should indicate that objective in the title that it would bear. Incidentally, the implication of the words 'for the purpose' in article 368 is that a constitution amendment Bill should contain exclusively the amendment proposal and nothing else, an objective that is provided for in so many words in the Constitutions of Burma (Art. 208) and Ireland (Clauses 3 and 4 of Article 46) or more specifically designated as 'Constitutional Acts' in the Constitution of Czechoslovakia. It also follows that it is required to make an express declaration of the

necessity or an amendment through a statement of objects and reasons. Such an express declaration, however, is not required under Article V of U.S. Constitution. The adoption by both Houses of Congress, of a joint resolution proposing an amendment to the Constitution, sufficiently shows that the proposal was deemed necessary by all who voted for it. In fact, none of the resolutions proposing amendments have contained a statement of necessity. In the National Prohibition cases (253 U.S. 350—1920) the Supreme Court of the U.S.A. without writing an opinion stated : 'The prohibition of the manufacture, sale, transportation, importation and exportation of intoxicating liquors for beverage proposals, as embodied in the 18th Amendment, is within the power to amend reserved by Article V of the Constitution'. Subsequently, in the case of 19th Amendment (Women Suffrage) it was contended that the amendment went beyond the power conferred by the Constitution in that so great an addition to the electorate, if made without the State's consent, destroyed its autonomy as a political body. The contention was summarily rejected by the Supreme Court. It pointed out that the 19th Amendment was similar in form to the fifteenth, which had been recognised as valid for fifty years. (Dillon V. Gloss 253 U.S. 350 (1920) and Lester V. Garnett 258 U. S. 130)

Then article 368 prescribes that a constitution amendment Bill could be introduced 'in either House of Parliament' which means that it is not possible to initiate amendment proposals in the States' legislatures as under the constitution of Venezuela. The possibility of introducing amendment Bills in either House of Parliament indicates that in the matter of introduction of constitution amendment Bills the two Houses of Parliament enjoy equality of status. Exclusiveness of initiation of amendment proposals at Union Parliament level also gives an idea of the federation envisaged under the Indian Constitution.

Attention should be drawn at this stage to the fact that in the absence of any specific rules mentioned in article 368 in respect of introduction of constitution amendment Bills and that there being no distinction between an ordinary Bill and the

constitution Bill, at least at the introduction stage, except in the matter of title, it is evident that the rules governing introduction of constitution amendment Bills are the same as those for ordinary Bills contained in the Rules of Procedure for introduction of Bills in the two Houses of Parliament.

Now, after an amendment proposal has been introduced in Parliament in the form of a Bill, it needs to be considered and passed. While article 368 states the manner in which a Bill should be passed, it is silent on the method of consideration. The reasonable inference is, therefore, that the Constitution amendment Bill should be processed through three stages as in the case of ordinary Bills. It also pre-supposes the reference to a joint or select committee if the Bill so warrants. Further the Constitution amendment Bill like an ordinary Bill should be passed by both the Houses of Parliament *i.e.* it is not merely sufficient that the Bill is considered and passed in the House in which it was introduced but that it should be considered and passed in the other House also. A question that could be asked at this stage is as to what is implied precisely by the term 'passage in each House'. Does it mean that a Constitution amendment Bill should only be discussed separately by each House and never jointly ? The answer to this is that normally a Bill to amend the Constitution, as any other Bill, should be discussed separately in each House but in case of differences between the two Houses, as in the case of ordinary Bills, a joint sitting of both Houses may be summoned under article 108 of the constitution and the differences resolved. In this connection it should be pointed out that by laying down that a constitution amendment Bill should be passed, normally, in each House, separately and in cases of deadlock only a joint session of the two Houses should discuss the issue, the framers of the Constitution have laid a cautious procedure against hasty and ill-considered alterations to the constitutional structure. Such a procedure affords an opportunity to entertain second thoughts on constitutional changes which a joint session for purposes of consideration of constitutional amendments, as provided for in certain constitutions, cannot. Further, by making it necessary the passage of constitutional amendment Bill by each House separately, which means a longer time being

devoted to the consideration and passage of such a Bill, it obviates the necessity for providing separately a time-lag so essential for the consideration and passage of constitutional amendment Bills and obtaining in certain written constitutions of the world. As the composition and the general complexion of the two Houses vary, the individuality and the differences in the various shades of opinion are better reflected when constitution amendment Bills are considered separately rather than jointly.

Then according to article 368 it is required that an amendment Bill should be passed in each House "by a majority of the total membership of that House as well as by a majority of not less than two-thirds of the members of that House present and voting.' This requirement of a double majority for constitution amendment Bill distinguishes such a Bill from an ordinary Bill. While the origin of this clause and need for it has already been discussed elaborately in Chapters Three and Four, it needs here to explain merely the meaning of the expression 'total membership" as also the stage or stages at which such double majority is required. In other words it is to be found out whether the term 'passed' occurring in article 368 means the final passage of the Bill or the various effective stages through which the amendment Bill has to pass.

In this connection it is necessary to draw attention to article 118 of the constitution more particularly to clause (2) which empowers the Chairman of the Council of States and the Speaker of the House of the People to frame rules of procedure and conduct of business in their respective Houses. Pursuant of this power, the presiding officers of the two Houses of Parliament framed rules for discussion of Bills and as constitution amendment Bills also followed the same procedure, except in the matter of voting, rules were required to be framed for such Bills also. The need for framing of rules in respect of constitution amendment Bills became necessary as early as May 1951 when the First Constitution Amendment Bill came before the Provisional Parliament. At that time a doubt arose if the voting requirement for a constitution amendment Bill to be passed under article

368 meant only for the final passage of the Bill and that for the earlier stage a simple majority was sufficient. The Speaker of the House of the People, therefore, wrote to the Minister of Parliamentary Affairs as follows:

> "The first motion will be 'that the Bill be taken into consideration'. I am not quite clear, whether this motion required the majority stated in article 368. Undoubtedly the consideration of the motion is a stage in the passing of the Bill; and in a sense it is preliminary to the real consideration which means consideration clause by clause. Therefore, it can be argued with force that this motion can be passed by a simple majority. But as a whole, since a Bill can be killed by defeating such a motion, a doubt is raised whether this preliminary consideration cannot be treated as part of 'passing the Bill'.
>
> "In order, therefore, that we may give no loop-hole for a possible argument in future, we might strike at the root of the entire Bill, I advise that this motion also should be passed by the majority required under article 368."

The speaker, subsequently referred the matter to the Attorney-General for his opinion. In response to that letter, the Attorney-General wrote on the 18th May, 1951 that in his opinion, the expression 'passed' in article 368 had reference to the passing of the Bill at the final stage only. His contention was that the expression 'when the Bill is passed' had to be understood in reference to the practice and procedure usual in Houses of Parliament and viewed in that angle that although various clauses of a Bill might be voted upon at different stages and 'passed', the Bill as a whole was 'passed' only when the voting took place at the final stage. He, however, agreed that it was better to err on the safer side and take the stricter view insisting on the requisite majority at all the stages of the passage of the Bill.

On the basis of the interpretation given by the Attorney-General, special rules seeking to amend the constitution, particularly in respect of voting were framed and incorporated under the Rules of Procedure and Conduct of Business in the House of the People. These Rules, originally published under the Gazette

of India Extraordinary, Part I, Section I, dated the 17th April 1952 and subsequently revised and brought into force with effect from the 15th October 1954, under Chapter XII entitled 'Bill seeking to amend the Constitution' read as follows :

167. **Voting on clauses and schedules.** Each clause or schedule, or clauses or schedules as amended, as the case may be, shall be put to the vote of the House separately and shall form part of the Bill if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting :

Provided that the Speaker may, with the unanimous concurrence of the House, put clauses or schedules together to the vote of the House in which case the result of the voting shall be taken as applicable to each clause or schedule separately and so indicated in the proceedings.

168. **Voting on amendments.** Amendments to the clauses or schedules shall be decided by a majority of members present and voting in the same manner as in the case of any other Bill.

169. **Voting on motions in respect of such Bills.** If motion in respect of such Bill is that

(i) it be taken into consideration, or
(ii) it be referred to a Select Committee, or
(iii) it be referred to a Joint Committee of both the Houses with the concurrence of the Council, or,
(iv) it be circulated for the purpose of eliciting opinion thereon, or
(v) it be passed ;

then the motion shall be deemed to have been carried if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

170. (i) **Voting by Division.** Voting shall be by division whenever a motion has to be carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

(ii) If the result of the voting shows that the majority of the total membership of the House and majority of not less than two-thirds of the members present and voting are in favour of the motion, the Speaker shall, while announcing the result, say that the motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

171. **Residuary Procedure.** In all other respects, the procedure laid down in these rules with respect to other Bills shall apply.

Appended to the rules was an explanatory sentence which indicated the meaning of the expression 'total membership' used in article 368. According to that 'total membership' meant the total number of members comprising the House irrespective of the fact whether there are vacancies or absentees on any account.

In the United States, however, where also a two-thirds vote in each House was required to propose an amendment, it was interpreted by the Supreme Court in the National Prohibition cases (1920) to mean two-thirds of the members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership. In the United States there is no quorum unless a majority of the House is present, but under our Constitution one-tenth of the House constitutes the quorum.

These special rules were necessitated in view of the difficulties that arose while interpreting the precise nature of the double majority requirement during the consideration of the First amendment to the Constitution, seeking as it did alterations in more than one article of the Constitution. It was presumably felt that the First Amendment to the Constitution was hustled through without adequate consideration and pulse of the House taken at various stages of its consideration. In this connection attention should be drawn to the fact while the Lok Sabha had framed rules of procedure for consideration of constitution amendment Bills, the Rajya Sabha had not. The Rajya Sabha did not feel the necessity of framing special rules for constitution amendment Bills, perhaps, because the first twenty constitution amendment Bills had

been introduced in the Lok Sabha only although according to article 368 a constitution amendment Bill could be introduced in either House of Parliament, and it had only to consider the Bill as passed by the Lok Sabha. The practice in the Rajya Sabha in the matter of voting by a double majority has, therefore, been only at the final stage of passage and not at all the effective stages as obtaining in the Lok Sabha. The matter also came up before a Committee of the Rajya Sabha members appointed in September 1963 to recommend draft rules of procedure under clause (I) of article 118 of the Constitution. The Committee, however, after careful consideration, came to the conclusion that the existing practice and procedure had worked satisfactorily and as such it was unnecessary to make specific provision for the purpose.

Reverting now to the special rules of the Lok Sabha for the purposes of constitution amendment Bills, rules 167 and 168 became necessary as the constitution amendment Bills sometimes, the First Amendment Bill, for example, contained several clauses, each one seeking to make alteration of one article. In such a case it became necessary to lay down the procedure of voting so that not only the time of the House was not wasted but also the requirement of article 368 was complied with. According to these two rules, amendment to clauses or schedules do not require the double majority but the clause or schedule that emerges finally should be passed separately by double majority. However, the Speaker was empowered to put the clauses or schedules together if that was the unanimous desire of the House.

Rule 169 interpreted the requirement of double majority in article 368 to mean, as a measure of abundant caution, all the effective stages through which the Bill passed and provided for five such stages. Rule 170 provided that whenever voting by double majority was to be taken, that was to be done only by calling for the division of the House and not be any other method of recording vote. It also made it obligatory on the part of the Speaker to announce an affirmative vote on a division that that motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

Finally, rule 171 removed all doubts with regard to the procedure to be followed in respect of constitution amendment Bills by stating that the procedure, excepting the ones relating to stages of voting wherein a double majority was required, the procedure in respect of ordinary Bills laid down in the rules of procedure of the Lok Sabha would apply.

These rules, particularly 167 and 169 relating to the voting on clause and schedules and voting on motions in respect of constitution amendment Bills as such, the latter one based as it was on the interpretation of the expression 'passed' in article 368, were found to be too rigid a procedure to be followed. It was further found that the obtaining of double majority by division at as many as five different stages in the passage of the Bill caused enormous delay and that it was contrary to the intention of the framers of the Constitution in respect of article 368 and in particular it ran counter to the procedure laid down in article 100(1) of the Constitution. The Law Ministry, therefore, wrote to the Chairman of the Rules Committee, particularly in respect of rule 169, that the provision for special majority for motions mentioned in clauses (i) and (iv) of rule 169 was not in accordance with article 100(1) and 368 of the Constitution. The letter also pointed out that the requirement of special majority for those motions had led to considerable and unnecessary delays in the consideration and the passing of the constitution amendment Bills. It had, therefore, proposed an amendment to rule 169 on the following lines with the object of limiting the requirement of special majority to the motion 'that the Bill be passed' :—

"169. (1) If the motion in respect of such Bill is that it be passed, the motion shall be deemed to have been carried only if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting.

(2) All other motions in respect of such Bill shall be decided by a majority of members present and voting in the same manner as in the case of any other Bill."

The Rules Committee of the Lok Sabha which met on the 28th November, 1955 considered, amongst other things, the changes suggested by Government in respect of rule 169 and generally about rule 167. Regarding rule 167, the Rules Committee pointed out that a special majority for the passing of each clause or schedule of a Bill seeking to amend the Constitution was provided out of abundant caution and 'for ensuring that every principle contained in the Bill was accepted by a special majority and that that view was consistent with the spirit of the Constitution.' It, however, added that as clause I, the Enacting Formula and the Long Title, were only formal provisions of a Bill and did not affect the Bill as such on its merit, those could be passed by a simple majority. Regarding the view of the Government and their proposal in respect of rule 169, the Committee came to the conclusion that the Second Reading was a process in the passing of a Bill and as such the provisions of rule 169 should continue as they were.

The interpretation given by the Rules Committee at its meeting on 28th November, 1951 to the expression 'passed' in article 368 of the constitution and the consequent insistence of double majority not only at the final stage of passing but also at the various effective stages, inter alia, proved embarrassing for the Government to see through quickly the passage of important constitution amendment Bills. The Constitution (Fifth Amendment) Bill, which originally contained several items but was restricted to one article subsequently, for facilitating the easy passage of the Constitution (Seventh Amendment) Bill relating to the States Reorganisation, was introduced in the Lok Sabha on 28th November 1955. For the quick passage of the Bill, it was thought that the Bill might straightaway be taken for consideration without being referred to a Select Committee, but as the consensus of opinion was for reference of the Bill to a Select Committee, the House discussed the matter on that day and on the 30th November. After the discussion, the motion was put to vote and the House division recorded 246 Ayes and 2 Noes. As the number of Ayes was five short of the requisite majority to satisfy the requirement of rule 169, the Speaker had to declare that the motion for reference to the Select Committee was not carried.

Subsequently, objection was raised when the Bill was sought to be reintroduced on 8th December, 1955 on the ground that the Bill was substantially idehtical with the previous one and as such could not be raised in the same session. The Bill, however, could only be introduced on 9th December, 1955 by the suspension of rule 321 of the Rules of Procedure and conduct of Business in Lok Sabha and ultimately passed by it on 13th December, 1955. To overcome the above difficult situation and the consequent delay, the Government once again renewed its request to the Rules Committee to reconsider their interpretation that the double majority requirement under article 368 to mean the various effective stages as against the final stage only. Recalling the earlier letter of the Law Ministry to the Speaker of the Lok Sabha, Shri H.V. Pataskar, Minister of Law Affairs wrote to Shri M. Ananthasayanam Ayyangar, the Speaker of the Lok Sabha and the Chairman of the Rules Committee of the Lok Sabha on 23rd February, 1956 as follows :

> "Our view was, and still is, that the words 'when the Bill is passed in each House' which occur in article 368 refer to the final stage when, after all clauses, schedules, the short title, the enacting formula and the long title have been adopted, the motion is put to the House that the Bill be passed. Even in regard to clauses, schedules, etc., the form of the motion is 'that clauses such and such do form part of the Bill'. It cannot be said that any such motion, much less, a motion that the Bill be taken into consideration or that it be referred to a Select Committee of the House or that it be referred to a Joint Committee of the two Houses or that it be circulated for eliciting opinion, is a motion which the Constitution 'provides' for any majority other than a majority of votes of the members present and voting. We think, therefore, it is contrary to article 100(1) to provide for a special majority for all sorts of interim motions in respect of constitution amendment Bills. We have specially consulted the Attorney-General on this point and he agrees with this view."

Shri Pataskar also recalled in the above letter 'the most embarrassing and awkward situation' in which the Government found

themselves, when 'although the House was almost unanimously in favour of the bill to amend article 3 of the constitution it could not proceed with it, because the number of members actually voting for the reference to the joint committee fell short of the requisite absolute majority by three or four." Drawing attention to the amount of time which had to be spent on divisions, Shri Pataskar added : "I for one can see no justification, either theoretically or from the practical point of view, for valuable parliamentary time being spent in this way." The letter concluded by saying, "I would, therefore, request you to place the matter once again before the rules committee and reconsider rules 167 to 169 of the rules of procedure. I shall be glad to put my views before the rules committee also, if necessary."

In other words according to the Minister of Legal Affairs, article 368 of the constitution provided for the special majority only at the final stage of the passage of a constitution amendment Bill, while all the earlier stages were covered by article 100(1) of the constitution which required simple majority. He, therefore, wanted that rules 167 to 169 should be amended so as to conform to that interpretation of the provisions in the constitution.

At its meeting held on 17th April, 1956 the Rules Committee took up for consideration of the procedure for voting on bills relating to amend the constitution, particularly in view of the changes desired by the Government. Apart from the members of the Committee, the Minister of Home Affairs, the Attorney General, Shri Frank Anthony, Smt. Sucheta Kriplani and Shri U. M. Trivedi participated, by invitation, in the deliberations of the Committee. At the outset the Chairman referred to the conclusions arrived at on the subject at their sitting held on the 28th November, 1955, the reason as to why the matter had come up again before them as also the views of the Government thereof. The Attorney General stated that he still held the same opinion which he had given to the Speaker in 1951 in response to the latter's letter. The Minister of Home Affairs while agreeing with the interpretation of article 368 by the Minister of Legal Affairs and the Attorney General, stated that there could be only two interpretations of the term "passed" used in article 368 : either

the term applied only to the final stage of the passage of the Bill or it covered all the stages from the motion for leave to introduce the Bill to the final motion "that it be passed". If the latter interpretation held good, special majority should be required even for the motion for leave to introduce the Bill, or for the disposal of amendments or for the passage of such formal provisions of the Bill as the Short Title, the Enacting Formula and the Long Title, which the rules did not provide. According to him, 'passing of the Bill' in terms of article 368 meant the adoption of that motion in respect of it which resulted in the final adoption of the Bill by the House. He, however, agreed with the view that in case of omnibus Bills which contained proposals for amendment of more than one article of the Constitution dealing with different subjects or aspects thereof, discretion might be vested in the Speaker to require special majority for a particular clause or group of clauses of the Bill so as to ensure that, where necessary, members expressed their opinion on different provisions of the Bill in an unambiguous way.

Some of the members, who participated in the discussion felt that the spirit behind article 368 was that no bill seeking to amend the Constitution should be passed otherwise than by a special majority and that implied that all the effective stages leading to the passage of the Bill should be subjected to special majority. It was contended that by a reference of a Bill to a Select Joint Committee, the House committed itself to the principles of the Bill and therefore the principle of the Bill should be accepted not by a simple majority but by a special majority, as that was an important stage in the passage of the Bill. If the special majority was not forthcoming at that stage, it was further held, it would not serve any purpose to spend the time of the House and the committee in carrying the Bill through subsequent stages when it was liable to be thrown out at the final stage, on account of its principle being unacceptable to the special majority.

As regards the requirement of special majority for each clause of the Bill, it was held that if a Bill contained provisions relating to a single article of the Constitution or articles which were closely related or inter-dependent, there might be some justi-

fication for a vote by special majority being taken at the final stage only and dispensing with that requirement in regard to individual cases. However, it was pointed out, in the case of omnibus Bills it was desirable to insist upon clear expression of views by a special majority on different clauses of the Bill separately, since they might be divided on the different provisions on different lines and as such, if voting by a special majority was taken only at the last stage, the position of the members would become anomalous and their vote would not reflect their true views on the different provisions.

The members also felt that instead of giving the discretion to the Speaker and placing the burden upon him to determine in each case how the voting should be taken, it would be better it was laid down in the Rules themselves that special majority would be required on all clauses with the proviso that the Speaker might put a group of clauses together in order to save the time of the House.

Some members also thought that if the special majority was reserved only for the final stage of the passage of the Bill, it might happen that the whole consideration of the Bill including its consideration clause by clause could be concluded in the House even though fifty members might be present and twenty-six voting in its favour. Such a position even theoretically, would run counter to the spirit and scheme of article 368 of the Constitution.

A point was raised that if the provisions of article 368 were not strictly followed i.e. if a special majority was required on a stage other than a final stage, such action might be against the provisions of article 100 (1). It was, however, considered that when there was a doubt about the interpretation of the word 'passed' used in article 368, it was safer to have a special majority rather than a simple majority in the case of other effective stages.

The Committee were of the opinion that as the Report of the Select or Joint Committee was subsequently considered in the House and that as by a well-established convention each such Bill was always sent to the Select or Joint Committee, no special majority for reference of the Bill seeking to amend the constitution

to the Select or Joint Committee should be insisted upon. In such a case the motion for consideration of the Bill as reported by the Select or Joint Committee should, however, require a special majority. As regards the motion for circulation of a Bill for eliciting public opinion, the Committee were of the view that as the House was not committed to the principle of the Bill while voting on such a motion, insistence upon special majority was not necessary. The Committee also felt that the provision in the first proviso to rule 167 laying down 'unanimous concurrence of the House' before the Speaker could put together to vote, the clauses of a Bill seeking to amend the Constitution, unnecessarily fettered the discretion of the Speaker which was not desirable.

In the light of the above observations, the Rules Committee recommended draft amendments to Rules 167 and 169. The Second Report of the Rules Committee containing the discussion of the Rules Committee held on the 17th April, 1956 as also the draft amendments to Rules 167 and 169 they had recommended was laid on the table of the House on the 18th April, 1956.

Three amendments were proposed to Rule 167, one by Shri Khub Chand Sodhia, the second jointly by Shri H.V. Kamath and Dr. A. Krishnaswamy and the third again jointly by Shri K. Anandan Nambiar and Shri N B. Chowdhury. Similarly three amendments were submitted to Rule 169, one each by Shri Khub Chand Sodhia and Dr. A. Krishnaswamy and the third jointly by Shri H.V. Kamath, Shri K. Anandan Nambiar and Shri N.B. Chowdhury. Shri Khub Chand Sodhia, however, withdrew the two amendments he gave notice of.

The Rules Committee met on the 24th April, 1956 to consider the amendments moved The Speaker called upon the members who had given notices of amendments to present their view points in regard to the amendments tabled by them so as to enable the Committee to consider them from all aspects. Shri Kamath stated that he was opposed to the recommendations of the Committee in regard to rule 167 on the ground that, it was not desirable to burden the Speaker with discretionary powers with regard to putting clauses of schedules together to the vote of the House in case of Bills seeking to amend the Constitution.

Dr. Krishnaswamy was of the view that the term 'passed' used in article 368 referred not only to the passage of the Bill at the final stage but also at the clause by clause consideration stage. According to him each clause or schedule in a Constitution Amendment Bill had a distinct purpose, namely to amend an article of the Constitution and as such special majority was necessary for the passage of each clause or schedule and, therefore, there was no scope for vesting any discretion in the Speaker for putting clauses or schedules together to the vote of the House. He thought that if special majority was not insisted upon for the passage of each clause, the amendment to the Constitution might not be held valid by the Courts of Law. Shri Nambiar and Shri Chowdhury urged that specific provision should be made in the rules that the Speaker would put a group of clauses to the vote of the House after ascertaining the views of the House. They, however, agreed that it was not necessary to insist upon the unanimous consent of the House as that would tantamount to a veto by one member upon a course of action which was otherwise approved by the House.

The Committee then heard the members who had given notice to Rule 169. Dr. Krishnaswamy expressed the view that the term 'passed' used in article 368 referred to the clause by clause consideration and the final passage of the Bill and not to the stages earlier than the clause by clause consideration. Accordingly, he felt that rule 169 would be amended so as to require the special majority only for the motion 'that it be passed' and not for the motions for reference of the Bill to Select/Joint Committee or for its circulation. All other members who had given notices of amendments agreed that special majority was not necessary in case of circulation of the Bill for the purpose of eliciting public opinion thereon They, however, urged that, as, by referring a Bill to a Select/Joint Committee, the House committed itself to the principle of the Bill, special majority should be insisted upon at that stage.

The members, who had given notices of amendments then withdrew. The Committee then proceeded to consider whether any changes were desirable to their earlier recommendation, in

the light of the viewpoints expressed. With regard to Shri Kamath's point it was stated that discretionary power was vested in the Speaker only with a view to save the time of the House and to expedite business and there was no question whatever of curtailing the power of the House. As regards the viewpoint expressed by Dr. Krishnaswamy, it was stated that by a well established privilege and also under the Constitution, the House was the master of its own procedure. If it interpreted the term 'passed' used in article 368 in a certain sense, it was doubtful whether the courts could call in question the validity of the proceedings in Parliament on the ground of alleged irregularity of procedure caused by such an interpretation

The Committee considered that generally the practice was that when the Speaker wished to put a group of clauses together he first ascertained whether members had any objection to that course being adopted, and, if he felt that a majority of members wished the voting on several clauses to take place together, he then ordered a division to be held accordingly. In case of an important clause or when a substantial number of members asked for voting on individual clauses, the Speaker generally ordered a separate division on each such clause. The Committee, therefore, felt that the retention of the words 'with the concurrence of the House', occurring in the first proviso to rule 167 would not make any substantial difference in actual practice. The Committee, accordingly, on reconsideration decided that for the amendment to rule 167 proposed in their Second Report, the following be substituted, viz.,

> 'In the first proviso to rule 167, the word 'unanimous' shall be omitted.'

Rule 169 was then taken up. The Committee were unanimously in favour of dispensing with the requirement of special majority in the case of the motion for circulation of the Bill for the purpose of eliciting opinion thereon. As regards the question whether there should be a special majority at the time of reference of the Bill to the Select Committee of the House or Joint Committee of the Houses, all the members except one agreed that special majority should not be insisted upon at those stages. The Com-

mittee, therefore, came to the conclusion that their original recommendation in regard to rule 169 should stand.

The above recommendations of the Committee were embodied in its Third Report and ultimately incorporated in the Fifth Edition of the Rules of Procedure and Conduct of Business in Lok Sabha as Rules 155 and 157. These rules now in vogue, read as follows :

155. Each clause or schedule, or clauses or schedules as amended, as the case may be, shall be put to the vote of the House separately and shall form part of the Bill if it is passed by a majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting :

Provided that the Speaker may, with the concurrence of the House, put clause and/or schedule, or clauses and/or schedules as amended, as the case may be, together to the vote of the House in which case the result of the voting shall be taken as applicable to each clause or schedule separately and so indicated in the proceedings :

Provided further that if a member requests that any clause or schedule, or any clauses or schedules as amended, as the case may be, be put separately, the Speaker shall put that clause or schedule, or clauses or schedules as amended, as the case may be, separately :

Provided further that the Short Title, the Enacting Formula and the Long Title may be adopted by a simple majority.

157. If the motion in respect of such Bill is that—

(i) the Bill be taken into consideration ; or

(ii) the Bill as reported by the Select Committee or the Joint Committee of the Houses, as the case may be, be taken into consideration ; or

(iii) the Bill, or the Bill as amended, as the case may be, be passed ;

then the motion shall be deemed to have been carried if it is passed by a majority of the total membership of the House

and by a majority of not less than two-thirds of the members present and voting."

The interpretation of the expression 'passed', occurring in article 368, by the Rules Committee, reducing the number of effective stages where the special majority was required from five to three, has not only provided the necessary rigidity against hasty action but also facility required for quick passage of Bills by reducing the number of stages at which divisions should be had.

This special double majority requirement, it is to be pointed out, is meant to ensure, amongst other things, that a Constitution amendment is discussed by not only as large a number of members of Parliament as possible but also that the concurrence of the maximum number of members participating in the discussion is obtained. Such a procedure, in particular the requirement of special majority requirement at the various effective stages in the passage of the Bill, has obviated the need for providing a minimum quorum for discussing constitution amendment Bills such as the one made under article 174 of the Constitution of the Republic of China. Under article 368 it is required that at least the vote of 251 members (total membership of the Lok Sabha being 500) of the Lok Sabha is required for the approval of an amendment Bill, assuming that the number of members present and voting is 334. But in case the participants to a constitution amendment Bill are more than 333 a proportionately larger number is required, the proportion being two-thirds of the members of the House present and voting, the maximum being 334 in a House of 500. Similarly in the Rajya Sabha, the respective requirements are the minimum of 126 (total membership of the Rajya Sabha being 250) when 166 are present and voting and a proportionate increase with increasing participants, the maximum being 166.

Attention should be drawn at this juncture that this special double majority is to be had not only in any one House of Parliament but in both Houses of Parliament. Such requirement of majority in both Houses of Parliament, wherever two Houses are there, are safeguards necessary not only for the protection of the federal system in particular, but in order to secure maturity of thought in the consideration and settlement of proposals

leading to organic changes. These safeguards have been provided in many Constitutions, not in order to prevent or indefinitely resist change in any direction, but in order to prevent change being made in haste or by stealth, to encourage public discussion and to delay change until there is strong evidence that it is desirable, irresistible, and inevitable.

After a constitution amendment Bill has been passed by both the Houses of Parliament in the manner outlined above, it is obligatory to obtain the Presidential assent, even as in the case of ordinary Bills, so that the Bill might become an Act and incorporated into the body of the Constitution. The phraseology of the obligatory requirement of Presidential assent of a constitution amendment Bill in article 368 as also its implication is worthy of attention. The word 'shall' used in the clause 'it shall be presented to the President for his assent and upon such assent being given to the Bill' emphasises the obligatory nature of the amending Bill being placed before the President for his assent. That this is not a mere formal process but an essential process in the amendment to take effect is brought out clearly by the expression 'upon such assent being given'. The imperative need for the Presidential assent to constitution amendment Bill, which is in no way different from the ordinary Bill except that it has to require a special majority of the Parliament for its passage at that stage to become an Act, is obvious, much more so when article 368 provides only one way for initiating a constitution amendment Bill and that too by the introduction of a Bill for the purpose in either House of Parliament. The Presidential assent is not taken for granted the moment a constitution amendment Bill is passed by both the houses by the special majority. The President could still consider if the amendment was at all necessary ; he could delay the passage of the Bill thereby providing the necessary time lag for second thoughts on the Bill. That he could only delay but not strangulate an amendment Bill which has been approved by both the Houses is also obvious, since the procedure for an ordinary Bill to become an Act applies to an amending Bill as well, and article 111 relating to the assent to Bills by the President applies.

With the assent of the President the process of amendment is complete and the constitution stands amended 'in accordance with the terms of the Bill.' The need for insertion of this clause in article 368 is to define precisely and restrict the scope of amendment to the objectives contained in the Bill. In other words the amendment cannot include anything more than what was contained in the Bill which had received the Presidential assent. If there is an after-thought and a change was required after the Bill had received the Presidential assent then that could only be done by a fresh Bill for the purpose. It is also to be noted in this connection that the clause 'in accordance with the terms of the Bill' does not mean the original terms or as the Bill was introduced but with the terms of the Bill as assented to by the President, taking into consideration the various amendments incorporated into the original Bill during its passage through the different stages.

In other words, the clause had been put there to signify that the essential requirement for purposes of amendment to the Constitution was the approval of the Constitution amendment Bill by the two Houses of Parliament with the requisite majority. Thus that while the introduction of the Bill for the purpose of amendment of the Constitution in either House of Parliament, its passage through the two Houses of Parliament, the presentation of the Bill so passed to the President and his assent thereof, pertain to the procedure in respect of the Constitution amendment Bill, the determination of the form and content of a constitution amendment vested as it is in Parliament's approval with the requisite majority, pertains to the location of power in respect of the amendment of the Constitution.

Even the legislative history of this clause would indicate beyond doubt that the framers of the Constitution desired to locate the amending power in article 368 and that in the Parliament of India functioning in the special capacity. The clause as it was passed on to the Drafting Committee on the 6th February, 1948 read as follows :

> 'and upon such assent being given, the Bill containing such amendment shall come into operation.'

Not feeling quite happy with the phraseology, the clause was recast as follows on the 9th February, when the Drafting Committee met for the second time for the purpose :

> 'and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill as so assented to.'

Subsequently, however, it was felt that the addition of the words 'as so assented to' after the words 'terms of the Bill' would be interpreted to mean that the terms of the Bill would depend on the Presidential assent which was not their intention. Therefore, on the following day, when the Drafting Committee met, they decided to delete the words 'as so assented to' to give the clause the existing form.

Accordingly, the Constitution does not stand amended neither in terms of a Constitution amendment Bill as initiated nor does it stand amended in terms of the Act after the Presidential assent but in terms of the Bill as approved by the requisite majority of the two Houses of Parliament. Hence, by providing the two clauses : 'it shall be presented to the President for his assent and upon such assent being given to the Bill' and 'the Constitution shall stand amended in accordance with the terms of the Bill' the framers of the Constitution have sought to convey that while a procedural obligation was cast upon the Parliament to submit a Constitution amendment Bill passed by it to the President, a reciprocal obligation was cast on the President ultimately, if not forthwith, to give his assent, as whatever be his attitude towards a Constitution amendment Bill, the Constitution would only stand amended in terms of the form and content in which it would be presented to the President. In effect, this amounts to what is provided for in the Constitution of Ireland, namely : 'The President to duly promulgate the law' ; or as provided for in the Constitutions of Bolivia, Burma, and Equador, namely : 'The President of the Republic has no power to object to it' ; 'the President to sign forthwith and promulgate the same' ; and 'The President of the Republic may not reject the amendatory law and will be obliged to promulgate it', respectively.

While a large number of articles in the Constitution can be

amended by the process outlined above, there are as many as sixty-five articles and two Schedules (Fourth and Seventh) provided for in the proviso to article 368 that could only be altered if ratified by a requisite number of States. To reiterate what has already been stated in Chapters Three and Four, the reasons for the inclusion of the above articles are that they are of common concern to both the Centre and the Constituent Units and any alterations in them would affect the federal scheme of the Constitution in which the Centre and the States are partners. A careful scrutiny of the articles included in the proviso will bring home this point very clearly Amendments to articles 54 and 55 are subject to ratification by States as they relate to the composition of the electoral college for the election of the President and the manner of election of President of the Indian Union. The States are effective partners with the Centre insofar as the election of the President is concerned although for other purposes the President is associated with the Union as against the Governor who is associated with the State. That accounts for limiting the ratification requirement to two articles only in respect of the provisions relating to the office of the President in the Constitution.

Amendments of Articles 73 and 162 are subjected to ratification by the States as they relate to the extent of the executive power of the Union and the States respectively. A safeguard in this regard is required to prevent encroachment of the jurisdiction of the executive power of one on the other, a vital matter in the scheme of the Indian federation based on the distribution of powers between the centre and the constituent units.

A similar argument is advanced for the inclusion of the distribution of legislative power between the Union and the States contained in eleven articles in Chapter I of Part XI of the Constitution. As any alteration in these provisions would affect the scheme of the federal constitution, the ratification by the States has become absolutely necessary. As a concomitant to the inclusion of the provisions contained in Chapter I of Part XI it became equally necessary to include the Seventh Schedule, an amplification of article 246, wherein is enumerated in three different Lists the precise distribution of subjects in which legislative action is exclusive for the Union and the States as also concurrently.

The representation of States in Parliament, a matter provided for in the Fourth schedule consequent on article 80(2) but subject to parliamentary action under Article 4(1) also requires ratification by the legislatures of the States. This is again so because of the scheme of the federation.

Then as the scheme of the constitution envisages a single judicial system for the Union as well as for the constituent units, it was felt that the provisions relating to the Union judiciary, contained in 24 articles in Chapter IV of Part V ; the High Courts in the States, contained in 24 articles in Chapter V of Part VI ; and the High Courts for Union Territories, contained in a single article (214) in Part VIII should also require ratification by the States, if amended.

Finally, the article relating to the amending process itself can only be amended with the approval of the constituent units. The inclusion of this article became obvious consequent on the framing of a single constitutional document for both the Union as well as for the constituent units.

It should be pointed out in connection with the distinction made in the Constitution with regard to certain articles which require ratification by a requisite number of State legislatures and consequently more difficult to amend as against the rest which do not require such ratification and consequently less difficult, that several State Constitutions in the U.S.A. have made such a distinction, some by making important provisions more difficult of change, others by making easier the alteration of less important provisions Alabama Constitution, for instance, provides that the basis of representation shall not be changed by constitutional amendment ; the Michigan Constitution of 1905 provided that the amending process should not be changed by an amendment initiated by popular referendum ; and the amending clause of the New Mexico Constitution may be changed only through the medium of a constitutional convention. Certain of the sections of the New Mexico Constitution dealing with the elective franchise and with education cannot be changed unless the amendment be proposed by a vote of three-fourths of the members elected to each House and be ratified by a vote of the people of the State in an election

in which at least three-fourths of the electors voting in the whole State and at least two-thirds of those voting in each county in the State shall vote for such amendment, while other parts of the Constitution are much easier to amend, and these limitations were introduced for the protection of the Spanish population. Virginia in 1902 made important provisions of its Constitution regarding a Corporation Commission alterable only by legislative act after a certain date in the future, and a similar provision was made by the Oklahoma Constitution of 1907. The distinction that we have made in our Constitution, between articles that are difficult to change as against those that are easy of alteration is not on the basis of important and less important as in the case of American State Constitutions but on a more rational basis of federal and non-federal ones. The distinction made between articles of the Constitution as important and less important or fundamental or less fundamental is not rational because what is properly fundamental and important is a matter of opinion and such a distinction would constitute the basis for an endless mass of litigation.

Now, as pointed out before, any amendment proposal in respect of the above matters need not only require to be passed by a special majority but also require to be ratified by the legislatures 'of not less than one-half of the States'. While elsewhere it has been discussed as to how this part of the amending process came to be incorporated, it now requires to be examined as to what is implied by the expression 'one half of the States'. Does it mean one half in terms of the size or population of States or still further the number of Chambers as some States have two Chambers while others have only one ? The answer to that seems to be, in the absence of any specification, only any one-half irrespective of their size, population or the number of chambers a State has. The States of the Union have been accorded equality of status in the matter of amendments to articles that require ratification by States although in the matter of representation to the upper chamber in the Union legislature a different principle has been adopted. This type of specification as merely 'one-half of the States' became inevitable not only to avoid discrimination between the States of the Union but any other alternative, excepting with regard to the proportion, would have resulted in compli-

cations of phraseology and easy acceptability.

Now the manner of ratification by the legislatures of the States should be through 'resolutions' stating that they have done so. The phraseology of this part of article 368 reads as follows, namely, 'by resolutions to that effect passed by those legislatures'. This shows that for purposes of ratification it is not necessary for the State legislatures to process the Bill through various stages of consideration but merely discuss the resolution that might be placed before them whether or not they approve of the Bill as passed by both the Houses of Parliament by a special majority. This process while it affords the legislatures of the States the opportunity to discuss the Bill and express an opinion one way or the other as a whole does not permit of either alterations in the content of the Bill or suggestions in that behalf. The advantage that could be claimed for this procedure is that it does not cause unnecessary delay at the States' level, a Bill that has been discussed by both the Houses, by the representatives of the people as well as of the constituent units, of Parliament in a thorough fashion. The process, however, is indicative of the subordinate status accorded to the States in the matter of amendment to the Constitution, which is already indicated in the denial of the power to initiate constitution amendment Bill. This is the scheme of the Indian federal constitution and as such constitutes no criticism of the procedure.

A question that could be asked in respect of ratification by States is the time-limit within which the legislatures of States should adopt a resolution in that behalf. Since the article does not specify any reasonable time within which the State Legislatures should convey their decision it might well be that the amendment to take effect is delayed since the process of ratification precedes presidential assent and that unless the requisite number of State legislatures ratify the amendment, the Bill cannot be presented for his assent. However a careful examination of the scheme of the Constitution, the mode of ratification by States legislatures, the minimum number of States legislatures that need ratify, as also the phraseology of the ratification part of the article would show that there is hardly any need for such a provision and that no undue delay is likely to be experienced by the

non-prescription in article 368 a reasonable time-limit for ratification by States' legislatures. Holding a subordinate status in the scheme of the federal constitution, the legislatures of the States can ill afford to delay its verdict on a Bill that has been passed by the Union Parliament and passed on to it with that objective, except to the extent caused by the Legislature being not in session when the matter could only be taken up at the next session, a special session for the sole objective of ratification being expensive to convene. Further as the minimum number of State Legislatures' approval is fixed at one-half recalcitrant attitude or delaying tactics on the part of some may not be of any consequence. If on the contrary it is the desire of majority or most of the legislatures of the States not to ratify the Bill on the ground that the amendment proposal is detrimental to their interest they would rather hasten to pass such a resolution rather than delay. In this context it is worthy to note that even under the Constitution of the U S.A. where for ratification purposes a larger number of States' approval (three-fourths) is required, no mention of reasonable time for States ratification is specified in Article V of the U.S. Constitution. All the same under Article V, Congress has the power to fix a reasonable limit of time for ratification. If this limit is not fixed in advance of the submission of the amendment to the legislatures, it may be regarded as open for the consideration of Congress when, in the presence of certified ratification of three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment. The promulgation is made through the Secretary of State, and the decision of whether the adoption was within the proper time would also be made by Congress through the Secretary. This decision would not be subject to review by the Courts. In other words, the time in which an amendment must be ratified is a political and not a justiciable question.

Now one other point that requires to be considered is the exact point of time for an amendment that requires ratification by the requisite number of legislatures of the States to have been duly ratified under the provision of article 368 for purposes of its presentation to the President for his assent, since the article merely reads that 'the amendment (of such of those mentioned in the proviso to Article 368) shall also require to be ratified by

the legislatures of not less than one half of the States by resolutions to that effect passed by those legislatures before the Bill making provision for such amendment is presented to the President for his assent'. From the phraseology, however it is clear that there is a bar to the presentation of the amendment as passed by the two Houses by a special majority to the President for his assent before it is ratified by the legislatures of not less than one half of the States. In other words the bar is only against presentation to the President for assent before a condition is fulfilled and that condition is only the amendment has to be ratified by the legislatures of not less than half of the States. That condition is fulfilled the moment it is ratified by fifty per cent of the legislatures of the States and then the bar against presenting the Bill for assent is ipso facto removed. The condition is not that before the amendment is presented to the President for his assent it has to be considered by all the States and the resolution passed by each one either ratifying or rejecting the amendment and at least fifty per cent of the State legislatures pass a ratifying resolution. Therefore, a Bill could be presented to the President for his assent after one half the State legislatures had ratified the Bill by passing the resolution to that effect and as such to say that an amendment does not amount to a valid enactment simply because the requisite number of States alone have passed a resolution to that effect and others had not, is erroneous. Firstly, it is not a condition that all the States must pass resolutions either positive or negative or must consider the amendment. Secondly, such a construction will enable a majority of States to hold up constitutional amendments by just refusing to pass resolutions without rejecting the amendments or by not considering the amendments at all.

In connection with the interpretation to be given regarding the ratification requirement, the occasion arose when Presidential assent was given to the Constitution (Third Amendment) Bill consequent on the ratification by one-half of the States while the matter was pending before the Mysore Legislative Council for consideration. Shri M.P.L. Sastry, a member of the Mysore Legislative Council, raising the question of powers of legislatures in respect of amendments to the constitution of India on the floor

of the Council on 26th February, 1955 contended that the assent of the President to the amendment passed by the Parliament when all the Legislatures of the States had not discussed the matter and expressed their views on it, raised the issue of the status of the legislatures. He was of the view that if the Legislatures had not been given any chance of discussing an important subject relating to the Constitution, the legislature would be serving no useful purpose.

In the discussion that ensued the consensus of opinion was that the Presidential assent should be after all the State Legislatures had expressed their opinion on an amendment Bill. Even the Chief Minister, Shri Hanumanthaiah, agreed that the legislature must have an opportunity of discussing the amendment, whether a particular legislature approved of it or not. He observed :

> "It is an inherent right of the Legislatures of the States, otherwise the amended article would have received partial support of the country, though technically it could become law. No provision in Article 368 which compelled the President to give his assent to the amendment the very day it was submitted to him. He would say that the Mysore (Personal and Miscellaneous) Inams Abolition Bill which had been passed by the Mysore Legislature was awaiting the assent of the President, for the past one year and more. Instead of asking for an amendment to the Constitution, which process was not only controversial but also cumbersome, they might as well point out to the concerned authorities, the delay in obtaining the assent of the President till all the legislatures of Part A and B States had considered the matter and expressed their views. Such a procedure, I hope, would meet the needs of the situation. I propose to address a letter on the above lines and when the Government and the Legislature make a proposal of the above nature, in order to ensure better cooperation and harmony between the States and the Centre, I am sure the Government of India will consider it sympathetically."

The Chairman of the Mysore Legislative Council, Shri

K. Bhasyam, however, held that a reasonable time had been given to the State's Legislature, which through their own fault they had not availed of and that the President was justified in giving his assent, as soon as the required number of States had ratified the Bill. Thus he said :

> "An amendment to the Constitution is a matter of great consequence and therefore, of supreme importance. It is very desirable, therefore, that wider interpretation of giving reasonable opportunity for every State Legislature to express its views should be adopted and it may be left to the State Government to communicate to the Central Government, this aspect of the matter. The question, however, whether reasonable time had been given to the State Government, in this particular case to ascertain the views of this House seems to admit of no doubt. As the extracts were received on 11th or 12th October, there was nothing to prevent the State Government from placing the Bill before the House as soon as it was received since the House was in session for 10 days thereafter. The Government need not have waited for the extract since the House was to discuss the provisions of the Bill and not the extracts of debates. If, however, the Government felt that the extracts would enable members the better to express their views, it is admitted that the extract and all connected papers were received on October 24, that is after the Council adjourned. The State Government ought to have held an emergent session of the Council to discuss the amendment since time was the essence of the matter. Under article 369, the period of 5 years during which certain controls such as on cotton, foodstuffs, fodder etc., vested in the Central Government was to expire on January 26, 1955. The Central Government were anxious that the controls should continue to vest in them and it could only be effected by the amendment coming into effect as soon after, if not before, January 26, 1955. Whether the continuance to vest the controls in the Central Government was desirable or not arose on the amendment and every State legislature was immediately concerned with it and had a right to express its view on the proposed amendment. I feel

sored by private members. Thus it could be said that in the matter of procedure regarding the amendment to the constitution, article 368 is not exclusive and that it has got to be supplemented with rules of procedure laid down by Parliament, ordinary and special, so far as it may be applicable consistently with the express provisions of article 368. An observation to this effect, it is worthy to note, was made by Patanjali Sastri J., while delivering the judgment of the Supreme Court in Shankari Prasad's case. He observed :

> "Having provided for the Constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules made by each House (article 118), the makers of the Constitution must be taken to have intended Parliament to follow that procedure, so far as it may be applicable consistently with the express provisions of article 368, when they entrusted to it the power of amending the Constitution.'

A word or two has got to be said at this stage with regard to the meaning of the word 'amend' used in article 368, since it has been contended that inasmuch as a wide phraseology used in the Constitution in other articles such as 'repeal' and 're-enact' is not used in article 368 the expression amend has a limited meaning indicating thereby that article 368 only enables a modification of the articles within the framework of the Constitution and not a destruction of them and consequently the said expression limits the extent of power of the amending authority. This contention is untenable. To say that the expression 'amend' used in the Indian Constitution has a limited meaning and as such the power it limited merely to modifications of the articles within the framework of the Constitution and not to 'deletion' of articles cannot be understood in view of the expression 'change' used in the proviso to article 368 containing the provisions relating to the basic structure of the Constitution. The more general expression 'change' has been deliberately used in the proviso to amplify and paraphrase the meaning of the expression 'amend' used in the main article as well as in the title and the marginal note, not only with a view to indicate the extent of power conferred under

article 368, namely, alteration, substitution and omission but also with a view to avoid the misinterpretation of the nature of the power conferred. The expressions 'repeal' or 're-enact' have not been used as they were likely to be misconstrued as pertaining to the exercise of legislative power rather than to a constituent power which the power of 'amendment' or the more general power of making a 'change' in the body of the Constitution relates to. It is an instance of skilful drafting whereby not only words have been economised but also the distinctive character of the constituent power has been brought out. All the same it is worthy to note that Hidayatullah J., in Golaknath's case did not subscribe to this limited meaning of the word 'amendment'. He observed :

> 'I do not take a narrow view of the word 'amendment' as including only minor changes within the general framework. By an amendment new matter may be added, old matter removed or altered.'

Incidentally it should be pointed out that the practice to signify the purpose of enabling amendment to the Constitution is by no means uniform. That while in some Constitutions, it has been found necessary to qualify the term amendment by signifying it to mean 'variation, addition or appeal' as in the case of Burma (article 207) and Ireland (article 46 1) or as including 'addition and repeal' as in the Constitution of Malaya ; in a number of Constitutions the expression 'amendment' is not at all used and instead terms like 'revision', 'review', 'reform', 'alteration', 'changes' or 'modifications' are used. The term 'revision' is used in the constitutions of Cuba, Cambodia, Belgium, the French Republic, Greece, the Italian Republic, Laos, Lebanon, Libya, Portuguese, the Polish Republic and the Swiss Federation ; the term 'review' in the Constitution of Laos ; the term 'reform' in the Constitution of Gautemala which is stated to consist of 'modifying, suppressing, adding, substituting or extending' articles, and the Republic of Honduras ; the term 'alterations' in the Constitutions of Australia, Netherlands and Norway ; the term 'changes' in the Constitutions of the Dominican Republic and Netherlands ; and the term 'modifications' in the Constitutions of Byelorussian Soviet Socialist Republic and Peru. Yet other Constitutions use

one term in the title and another in the body such as in the Constitution of Gautemala, the term 'amendment' is used in the title but in the body of the article the term 'reform' is used ; 'amendment' in the title and 'repeal or alter' in the body as in the Constitution of the Republic of South Africa ; and 'changes' in the title and 'alterations' in the body as in the case of the Constitution of Netherlands. The Constitutions of Dominican Republic and Jordan have chosen respectively the terms 'Constitutional Reforms and Changes' and 'amendment and revision'. The Constitution of the United States of Mexico speaks of 'amended or added' signifying thereby that the term 'amended' means anything else than 'addition', that is to say that it signifies only 'substitution or deletion' which meaning incidentally is quite in contrast with the one given to it in the majority judgment in Golaknath's case. In that case it was contended that 'amendment' excluded within its scope 'repeal' and therefore it meant only 'addition'.

From the foregoing account of the procedure for the amendment of the Constitution one thing is obvious and that is that there is no separate constituent body for the purposes of amendment of the Constitution, constituent power also being vested in the two Houses of Parliament. It is also clear, in the absence of any specification in respect of the minimum number of members of Parliament that can initiate an amendment proposal, that any single member of Parliament can initiate a proposal in that behalf and that if he could muster the requisite majority in the Parliament followed by the Presidential assent then he could have the Constitution amended. In other words, the procedure enables the introduction of constitution amendment Bills by private members of Parliament with as much ease and facility as by official members although the prospects of ultimate passage of amendments introduced by the latter category of members are certain, because of, inter alia, assured requisite majority in the two Houses, in the case of former ones, they are nil unless official support was forthcoming. Since, however, the rules of procedure in the two Houses of Parliament for private members' Bills are slightly different from those of official members' Bills, a Bill for amendment of the Constitution by a private member is governed by the rules applicable to private member's Bill in general. Thus the

notice period of one month, under rule 65(3) of the Lok Sabha, of motion for leave to introduce private members' Bills and the special provision for the removal of private members' Bill from the Register of Bill, rule 113 of the Lok Sabha Rules of Procedure, applies to constitution amendment Bill also. In addition, in Lok Sabha, such a Bill, notice of which has been given by a private member, has to be examined by the committee on Private Members' Bills and Resolutions before a motion for leave to introduce the Bill is included in the list of business of the House. The above Committee, at their second sitting on the 8th December, 1953, had to examine for the first time four private members' Bills seeking to amend the Constitution in regard to which notices had been received asking for leave to introduce them in the House. But before recording their opinions in respect of each of the four Bills referred to above, the Committee enunciated certain principles which would serve as their guidelines in making their recommendations to such Bills. They were :

(i) The Constitution should be considered as a sacred document which should not be lightly interfered with and it should be amended only when it is found absolutely necessary to do. Such amendments may generally be brought forward when it is found that the interpretation of the various articles and provisions of the Constitution has not been in accordance with the intention behind such provisions and cases of lacunae or glaring inconsistencies have come to light. Such amendments should, however, normally be brought by Government after considering the matter in all its aspects and consulting experts and taking such other advice as they may deem fit.

(ii) Some time should elapse before a proper assessment of the working of the Constitution and its general effect is made so that any amendments that may be necessary are suggested as a result of sufficient experience.

(iii) Generally speaking; notice of Bills from Private Members should be examined in the background of the proposals or measures which Government may be considering at

the time so that consolidated proposals are brought forward before the House by Government after collecting sufficient material and taking expert advice.

(iv) Whenever a private member's Bill raises issues of far-reaching importance and public interest, the Bill might be allowed to be introduced so that public opinion is ascertained and gauged to enable the House to consider the matter further. In determining whether a matter is of sufficient public importance it should be examined whether the particular provisions in the Constitution are adequate to satisfy the current ideas and public demand at the time. In other words, the Constitution should be adapted to the current needs and demands of the progressive society and any rigidity which may impede progress should be avoided."

From the criteria laid down by the Committee, it is evident that the tendency is to discourage constitution amendment proposals by private members. A private Member's proposal is to subserve the official proposal on the subject and that too if the proposal of the private member happens to be presented at the time of consideration of an official proposal. However, a private member's Bill which raises issues of far-reaching importance and public interest has reasonable chances of being allowed to be introduced for the limited objective of ascertaining popular opinion and support thereon to enable the House to consider the matter further. The Committee expressed the view that the Constitution should be amended only after a lapse of some period and that too only when it is absolutely necessary. Such amendments should normally be brought by Government to achieve any of the following objectives, namely :

(1) to convey the real intention behind constitutional provisions if the interpretation is otherwise ;

(2) to bridge the lacunae that might appear in the various provisions of the Constitution during its practical application ; and

(3) to remove glaring inconsistencies between the various articles of the Constitution that have come

to light in the process of the working of the Constitution.

It requires to be stated in this connection that in the light of the principles enunciated above, the Committee came to the conclusion that none of the four Bills that were before them for examination should be allowed to be introduced.

Another feature of the amending process of the Indian Constitution, under article 368, is that there is no limitation placed upon the amending power, that is to say, there is no provision of the Constitution which cannot be amended. This is unlike a number of other written constitutions of the world wherein exceptions are made within the article envisaging the process of amendment restricting thereby the constituent power the power to amend. In fact, the proviso to article 368 enables Parliament to amend the provisions of article 368 itself. This, along with the substitution of a new First Schedule in place of the original one, article 368 was also amended and the words 'specified in parts A and B of the First Schedule in the proviso' was omitted by Constitution (Seventh Amendment) Act, 1956. In Shankari Prasad V. Union of India, even the Supreme Court had held that 'the terms of article 368 are perfectly general and empower Parliament to amend the Constitution, without any exception whatever'. Even the fundamental rights guaranteed under Part III of the Constitution could be abridged under the process envisaged under article 368 although clause (2) of article 13 states that 'the State shall not make any law which takes away or abridges the rights conferred by this Part (Part III—Fundamental Rights) and any law made in contravention of this clause shall, to the extent of the contravention, be void'. When it came up before the Supreme Court as one of the specific issues in the Shankari Prasad V. Union of India, whether the Constitution (First Amendment) Act, which inter alia, sought to abridge some of the fundamental rights guaranteed by Part III of the Constitution, was hit by the provisions of clause (2) of article 13, it held :

> "In the context of article 13 'law' must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the Constitution made in exercise of constituent power."

In other words, it should be obvious that although the procedure in respect of introduction, consideration, and passage of a constitution amendment Bill is the same as for an ordinary Bill except in the matter of voting requirement, a constitution amendment Bill is different from and superior to an ordinary Bill despite the fact that Parliament is the agency through which both the functions are discharged.

An important feature of the amending process, however, is the subordinate role accorded to the States in the matter of constitution amendment. Apart from being associated in the process by the ratification procedure laid down in article 368, all that is open to them is (1) to initiate the process for creating or abolishing the Legislative Councils in their States, a process under article 169 (1) which requires the passing of a resolution to that effect by a special majority in the Legislative Assembly so desiring to be followed by parliamentary approval and enactment of a law in that regard ; and (2) to give their views on a proposed parliamentary Bill seeking to affect the area, boundaries or name of any State or States, which has been referred to them under the proviso to article 3-a reference which does not, however, fetter the power of Parliament to make any further amendments to the Bill.

PART TWO

AN ASSESSMENT

A Critical Estimate of Constitutional Amendments and Amending Procedure

In a little over twenty years since the adoption of the Constitution, twenty-three amendments have been effected to the basic document. Fifty-five articles and seven Schedules have been amended and fourteen new articles and a Schedule have been added in the process. Of the articles amended, articles 3, 19, 31A, 217, 220, 222, 224, 333 have been amended twice ; articles 81 and 334 thrice and article 240 four times and of the Schedules amended, the Second and Fourth have been amended twice ; the Seventh four times and the First five times. The average rate of amendment is an amendment to the Constitution approximately once in ten months. The First amendment to the Constitution was effected approximately seventeen months after the adoption of the Constitution, namely on 18th June 1951. The Second came twenty-two and a half months after the First i.e. on 1st May, 1953 ; three amendments were carried out in 1955 ; two in 1956 ; two in 1960 ; two in 1961 ; three in 1962 ; two in 1963 ; one in 1964 ; three in 1966 ; one in 1967 ; one in 1969 ; and one early this year. While these amendments were carried out through Government Bills introduced for the purpose, attempts were made to amend the Constitution through Private Member's Bills 188 times, 137 times by the Members of the Lok Sabha and 51 times by the members of the Rajya Sabha, of which only 51 Bills were discussed and either negatived or withdrawn and one was withdrawn before discussion.

Looking merely at the number, it is often asked if it was proper to have amended the Constitution so many times within the

brief span of twenty years. Well, it should be said at the outset that the number of times that a constitution needs be amended cannot be co-related with the time factor, nor is it proper to judge constitutional amendments merely by number. When a constitution amendment requires to be effected, the occasion, is dependent on a variety of causes and once the cause appears patent the amendment becomes inevitable and as such it should be effected at the earliest opportunity. In other words, an amendment to the Constitution cannot be anticipated in advance as it depends on the imperative need for it and that imperative need may arise at any moment. As such amendments to various provisions of the Constitution cannot be phased to any set time schedule. The occasion for amendments or the cause might come in quick successions or it might not for a long time. The Swiss Constitution for example was amended only eleven times during the first 28 years but during the next 78 years it was amended as many as 98 times.

The normal experience has been that in the initial period of the working of the Constitution, since the various provisions contained in the constitutional document come in for being tried out, the frequency of amendments is greater. But once it is established, that, by and large, the various provisions of the Constitution have facilitated the realisation of the objectives for which those provisions have been made, Constitution amendments become less frequent. In the U.S.A. for instance, the first ten amendments were initiated and adopted at one time but later on constitutional amendments became less frequent. Between 1810 and 1909 no amendment was made to the constitution. It would be of interest to note in this connection that it is recorded that over 4000 measures to amend the Constitution had been proposed since the Constitution of the U.S.A came into effect.[1] Of these many were

[1] Actually the number of proposals have been : 1964 between 1789 and 1889 and 2056 between 1889 and 1941. Subsequently 40 to 60 are normally presented in the House or Senate (or both) during an average session. (The proposals between 1789 and 1989 are classified in the monograph by H.V. Ames in The proposed Amendments to the Constitution of the U.S. During the first Century of its History. *Annual Re-*

(Continued on next page)

identical or at least concerned with the same questions or were trivial, ridiculous or unnecessary. The Congress approved only 27 of them and the States ratified 22 of these. All these amendments originated in the Congress and the convention method of initiation has not been resorted to till date. Similarly the Basic Law of the Federal Republic of Germany which was promulgated on May 23, 1949 and became effective on March 15, 1955 came to be amended twenty times in less than ten years, roughly half of which changed the existing text of the Basic Law while the remaining half were in the nature of supplementary amendments. Of these 20 amendments, 15 became effective as a package on March 19, 1956, a year after the Constitution became effective, and they concerned primarily the empowering of West Germany to create a national military establishment and to exercising the security function which had previously been reserved to the constituent States. Leo Kohn, notes that the Constitution of Irish Free State (6th December, 1922) had been amended 16 times during the course of the first eight years, seven of them effected in a single year (1928).

Further in the case of constitutions which require constitutional amendments to be subjected to the popular referendum, the frequency rate depends on the attitude of the people. That while the Australian experience has been that it is exceedingly difficult to amend the Constitution, the experience of Irish Free States, which followed the Australian model, and California have been that it is in fact more easy to change and they have been changed more frequently.

port of American Historial Association (1896) ; those between 1889 and 1929 are similarly classified in M.A Musmanno's Proposed Amendments to the Constitution 70th Congress, 2nd Session, *House Document*, 551 (1929) ; and the 740 introduced between 1926 and 1941 are listed in E.A. Halsey's-Proposed Amendments to the Constitution of the U.S. Introduced in Congress December 6-1926 to Jan. 3, 1941 carried to'1947 in C.A Loeffler's 'Proposed Amendment to the Constitution of the U.S. Introduced in Congress from the 69th Congress, 2nd Session, through the 79th Congress, Dec., 6, 1926 to Jan 3, 1947. Amendments proposed from year to year will be found listed in the appropriate volumes of the U.S. Statutes At Large.)

However, the frequency of constitutional amendments depends on the nature of the Constitution and the type of provisions the Constitution has made, namely, on the procedure to be followed at the different stages as well as the content of the constitutional document as such. Thus for example, the procedure for the amendment of the American State Constitution of Illinois is so involved and so difficult to implement that few amendments have actually been made. Only 7 constitutional amendments in approximately 80 years (1870-1949) have been made to the Constitution of Illinois. To amend the Illinois Constitution, favourable action by two-thirds of all members elected to the two houses of the legislature is required, and such amendments must be approved by a majority of those voting in the next election of State representatives. Tennessee State was not able, even in the face of stark necessity, to amend its 1870 Constitution until 1953; while Alaska and Hawaii have yet to amend their Constitution. Kentucky, with provisions forbidding the submission of more than two amendments at one election and prohibiting resubmission of an amendment within five years after its rejection by the people, has had only 8 amendments in forty-eight years (1891-1949). By contrast, the Louisiana Constitution of 1921 and the California Constitution of 1879 have been amended 326 times and 370 times respectively; while the Constitutions of Alabama, Florida, New Hampshire, New York, Oregon, South California and Texas each have amended their constitutions over 90 times. H.J. May reported in the book 'The Union of South Africa, the Province and Central Government'—Vol. 18, 1949, that the Constitution of South Africa till 1948 had been amended nearly 200 times and Kennedy and Schlosberg, the authors of the above mentioned book state that as many as 66 sections of the Constitution have been amended. Similarly, because of procedural difficulties although 77 amendments had been moved to amend the Constitution of Australia only 4 had been accepted. William S. Livingston in 'Federalism and Constitutional Change' states that of the 77 amendment proposals to the Australian constitution, 16 lapsed or were defeated before introduction; 38 reached the stage of Bills but subsequently lapsed or were defeated; and 23 were submitted to referendum. Of the four accepted Bills 3 originated

in the House of Representatives and only one in the Senate. Of the 73 unsuccessful ones, 40 were initiated by private members and 33 by the Government ; 29 out of 50 unsuccessful Bills were initiated in the House of Representatives ; and of 23 Government Bills submitted, one originated in the Senate and 22 in the House of Representatives.

Similarly if details are avoided and matters which normally can be left to ordinary legislative and administrative action are not included in the constitutional document then the frequency for constitutional amendments become less. Further, if there is a single constitutional document for the federal part as well as for the components of a federal scheme of Government then the tendency for constitutional amendment increases not only because of the enlargement of the scope of the constitutional document but for the purposes of facilitating harmonious relationship between the two parts. Since the Indian Constitution contains details and matters which normally are left to ordinary legislative and administrative action apart from the fact that there is a single document for the federal as well as for the component parts, the tendency to amend the Constitution is greater. Viewed from that angle alone, the Indian Constitution cannot be compared either with the Constitution of the U.S.A. or the Swiss Constitution or as a matter of that with any other Constitution for purposes of examining the frequency rate of amendments.

From the above analysis, it could be said that barring a few exceptions, Constitutions are not amended frequently and amendments that have been made in most of the Constitutions are mainly for two issues only, namely, the right to vote and the method of voting. K.C. Wheare observes in his book 'Modern Constitutions' that during the first fifty years of the twentieth century, Constitutions have been amended from time to time to widen the franchise, introducing manhood suffrage or later on, womanhood suffrage. Thus, for example, he points out that the Swedish Constitution was amended in 1909 to permit manhood suffrage and in 1921 to permit womanhood suffrage; in Norway manhood suffrage was finally established in 1913 after a series of amendments, and votes were granted to women on a limited scale in 1907 and on

equal terms with men in 1913. In 1915 a thorough revision of the Danish Constitution of 1863 had as its main object the grant of the vote to all citizens over the age of twenty-five and the introduction of a wider franchise in the process of selecting members of the Upper House of the legislature. Wheare further records that in these three Scandinavian countries, the Constitutions were amended to permit the introduction of Proportionate Representation in Sweden in 1909, in Norway in 1913 and in Denmark in 1915. In Holland franchise was extended through constitutional amendments in the years 1917 and 1922 and in Belgium in 1920 and 1921 and Proportional Representation was provided for in Holland in 1917 and in Belgium in 1893.

Another question that poses itself in the context of constitutional amendments in India is whether the amendments were drastic and fundamentally altered the basic structure and scheme of the Constitution or were merely clarificatory and consequential meant for upholding that scheme and for facilitating the due discharge of its constitutional obligations and directives. The amendments carried out till date establish beyond doubt that the objectives have been for the preservation and perpetuation of the scheme of the Constitution and for facilitating the realisation of the goals and aspirations of the people of India as provided for in the constitutional document. Amendments in most cases were necessitated consequent on judicial interpretation of the phraseology of the Constitution not being in consonance with the spirit of the Constitution, while quite a few amendments were made to comply with the interpretation given by the judiciary. The acceptance of the proposals of the States Reorganisation Commission accounted for amendments of some articles and schedules even as the question relating to representation of States and Union territories in Parliament necessitated constitutional amendments. The need for securing central control over essential commodities as also the need for the removal of difficulties in the way of sales tax in inter-state trade and commerce necessitated two separate amendments to the Constitution. Amendments were also required to be made for safeguarding the interests of the Scheduled Castes and Scheduled Tribes ; for filling up certain lacunae in the Constitution ; for the creation of popular legislatures and giving of

representation to Union territories in Parliament ; for combating the fissiparous tendencies and promoting national integration ; for making special provision in respect of the State of Nagaland ; for facilitating the quick disposal of election disputes ; for the validation of appointments of and judgments etc., delivered by certain district judges ; and for satisfying the aspirations of the Sindhi-speaking people. These amendments were besides a few articles that needed amendment in the language so that the idea behind it became more clear.

A close examination of the various amendments that have been carried out till date do not betray any deliberate design on the part of the Government to tamper with the Constitution. An amendment was resorted to only when it became inevitable, an inevitability that was caused mostly by judicial interpretation which did not accord, to reiterate, either with the scheme of the Constitution or the intentions of the framers of the Constitution. A black spot, however, in the amendments carried out was in respect of the validation given, retrospectively, to a number of Acts of State Legislatures without adequate thought being bestowed on them before inclusion in the Ninth Schedule, a Schedule that was added to the Constitution by the Constitution (First Amendment) Act for enlisting Acts that needed validation retrospectively. But even for this action while the executive stands accused for hasty and ill-considered action, to blame the Parliament that they were motivated by partisan consideration is neither justified nor stands substantiated by facts.

Thus Shri Hajarnavis speaking on the motion for reference of the Constitution (Amendment) Bill of Shri C. R. Pattabhiraman to the Select Committee on March 23, 1962, aptly observed :

> 'Every time the Constitution has been amended it has been amended with a view to enable Government to discharge its duties as a welfare State. Very seldom has Government taken powers to amend the Constitution so as to abridge any of the rights granted to the citizen. Our Constitution contains many parts which in other Constitutions are not regarded as Constitution at all. A Constitution, strictly speaking, should contain only those provisions which deal

with the structure of the State, the legislature, the judiciary and the executive. Having done that, the procedural part is left to the organs created by the Constitution to be devised, but in our Constitution we have thought it fit to include many provisions which I might say fall outside what is called the Constitution proper. Amendments of those parts, though they are constitutional amendments in the sense that they amend our Constitution, are not constitutional amendments, properly speaking. Secondly, where we have amended the structural part of the Constitution, that is only for broadening the basis of individual rights and individual freedoms, or for enabling us effectively to disharge our duties as a welfare State.'

Continuing further he accounted for the greater frequency of constitutional amendments in India compared to America in the following words :

'It is true that in the United States there have been lesser number of amendments—not less numerically, but less frequent. So far as the number is concerned, they have, I think, sixteen or eighteen amendments, but they are spaced over about 150 years or so, but the United States had had about a century and a half to go. There, in that society, a logical, a social, a technological and judicial equilibrium has been achieved, so that they can wait to see how a particular law works, whereas we have to make a rapid transformation of a feudal, agricultural advantages of a modern society. In doing so, under the direction of this House it has to take steps which must be rapidly effective. We cannot wait for six or eight years for the law to manifest its purpose.'

Thus, therefore, it is difficult to agree with Shri Ranga's observation, while speaking on the Constitution (Seventeenth Amendment) Bill on September 18, 1963 that the party in power has been treating the Constitution in an 'unceremonious and contemptuous manner'. He observed, of course, in the context of the Constitution (Seventeenth Amendment) Bill proposed in pursuance of the land reforms against which the Swatantra Party was opposed, as follows :

> 'Indeed many of the ordinary laws have fared much better than the poor Constitution. When we take our Oath in this House as Members of this House we swear by and to remain loyal to this Constitution. And who is more disloyal to this Constitution than the Government themselves ? It is only through a kind of legal fiction that they choose to change the character of their own mother so that she continues to be the mother, only she does not happen to be the original mother that had given birth to these babies. This is the way in which they have been dealing with our Constitution in such an unceremonious and contemptuous manner.'

A fitting answer was, however, given by Shri A. K. Sen during the course of the debate to the above remarks of Shri Ranga. He observed :

> 'If I have understood anything as a student of constitutional law and of constitutional history, constitutions are made for men and not men for Constitutions, and no Constitution is worth its name however grand it may be in its phraseology unless it subserves the great interests and welfare of the people from which alone a Constitution derives some importance. If it fails in that basic purpose of subserving to the basic needs of the people for whom the Constitution is meant, that Constitution has to be changed. If it is to be changed a hundred times, it has to be changed a hundred times.'

The fact that in the last nineteen years a large number of amendments could be made and have been made is due to the accident that one party has been returned by elections in sufficient strength to be able to command the special majority which is required under article 368, not only at the Centre but also in the States. The long spell of stable majority assured to a single party gave enough opportunity to try out the various provisions of the Constitution and bring about the necessary changes that might have otherwise taken a longer period under different circumstances. Once it is conceded that the changes made in the Constitution till date are desirable it follows that it was only too proper

that the earliest opportunity was taken to write down into the Constitution the changes needed.

Now in a country pervaded by the spirit of party, most questions either are in the beginning, or soon become, controversial. A change in the Constitution, however useful its ultimate consequences, is likely to be for the moment deemed more advantageous to the ruling party than to the others, and this is enough to make the other parties oppose it. As a matter of fact, the mere fact that a proposal comes from one side, rouses the suspicion of the other. This has been the experience of any government that has been run on party lines. If a measure of reform is immediately pressing, it becomes a matter of party contention, it excites temper and passion. It it is not pressing, neither party having other and nearer aims cares to take it up and push it through. Thus for instance, in England during many years, thinking men of both parties have been convinced that something ought to be done to re-construct the Upper Chamber but since neither party had any direct gain to expect from such a reform, neither has troubled itself to undertake a confessedly difficult task.

A great controversy that has been raging regarding constitution amendments in India is whether an amendment could be made to the articles in the Part relating to Fundamental Rights so as to abridge the rights conferred by the Constitution on thec itizens of India. But before examining that question, it is to be considered as to what exactly is the nature of fundamental rights incorporated in the Constitution in general and what precisely is the nature and scope of fundamental rights provided for in the Indian Constitution. Fundamental rights in the sense that they are rights belonging to individuals securing for them essentially civic and political rights and safeguarding them against State exploitation in whichever Constitution they are provided for, are merely enumerated without much of elaboration, qualification or limitation whatever and fundamental rights in the sense that they are rights pertaining to the social and economic fields, in whichever Constitutions they are provided for, are defined in scope and extent. In other words most of the Constitutions lay emphasis

and explicitly provide for socia and economic rights rather than on traditional political rights, since the former are more beneficial and hence more important than the latter. Besides, whenever the two sets of rights are provided for in any constitution, by and large, there is no distinction made between them, particularly in respect of their enforceability, although they might be provided for, in view of their distinctiveness, in two different parts or chapters.

In the Indian Constitution on the other hand, the framers of the Constitution chose to provide for the two sets of fundamental rights, in view of the social, economic and political conditions prevailing in India, in an entirely different way. That apart from making provision for the two sets of rights in two separate chapters, the framers of the Constitution of India found it necessary to make the social and economic rights non-enforceable in the courts of l aw, in view of the inherent limitations in their easy realisation, although the State was as much obliged to secure for the individuals the economic and social rights as provided for in the Part entitled 'The Directive Principles of State Policy' as the safeguarding of traditional rights contained in the 'Fundamental Rights' Part. In other words, the Constitution of India, which is the basic law attached as much of importance to Fundamental Rights as to the Directive Principles of State Policy, issuing directives as it were to appropriate authorities not only the safeguarding of traditional rights but also the securing of economic and social rights. Thus constitutionally viewed as much sanctity should be attached to the provisions contained in the 'Directives' Part as the 'Fundamental Rights' Part. As rights, either secured or sought to be secured, they occupy, in the manner they are provided for in the Indian Constitutional document, the same transcendental position. In providing for two sets of rights in the manner in which it has been done in the Indian Constitution, the framers of the Constitution did not divorce the function of safeguarding of rights given to the judicial branch of Government from the function of securing of rights given to the executive and legislative branches of Government. It was not as it were for the judiciary, as it was constitutionally obliged to safeguarding

fundamental rights, to regard fundamental rights alone as occupying a transcendental position, so transcendental that a Bill enacted by a unanimous vote of all the members of both the Houses of Parliament is ineffective to derogate from its guaranteed exercise or for the Parliament, as it was constitutionally obliged while making laws to abide by the mandatory provisions contained in the Directive Principles of State Policy, to regard the 'Directives' alone as occupying a transcendental position, so transcendental as to disregard the unanimous verdict of the judiciary against a law enacted by Parliament implementing a directive to it contained in the Directive Principles of State Policy as its guaranteed exercise. Such an inference is not only unwarranted but even dangerous to postulate.

Further, unlike the provisions made in other Constitutions of the world in respect of the two sets of rights, the fundamental or traditional rights in the Indian Constitution are enumerated in an elaborate fashion with several qualifications and limitations. These qualifications and limitations were made in the fundamental rights so that they might not come in the way of securing other guaranteed, social and economic rights provided for in the Constitution. These limitations or restrictions, although comprehensive could not, by any stretch of imagination, be construed to be exhaustive since the framers of the Constitution could not have anticipated, at least such of those limitations which might have to be imposed in those rights after having worked the Constitution for some time. Thus the fundamental rights enumerated in the Indian Constitution permitted, if need be, further limitations or restrictions on its guaranteed exercise, if it stood in the way of the fulfilment of other equally important constitutional obligations. And since the mechanism for making such adjustments to enable the various authorities created by the Constitution to function in accordance with the provisions of the basic law is an amendment to the Constitution through the procedure laid down in the Constitution itself, all the constitutional obligations of all the authorities, excepting those specifically exempted from the purview of the mechanism, come under its ambit. Article 368 of the Constitution in so far as it does not exempt the fundamental rights part—as a matter of

that no part of the Constitution is exempted—from its purview, the provisions relating to fundamental rights could be amended by the instrument and through the procedure outlined in article 368, even as any other provision in the Constitution.

As a matter of fact the framers of the Constitution never even thought of exempting the Fundamental Rights provisions from the purview of the amending clause. Even the idea of its inclusion in the proviso to the amending clause, namely, the subjecting of an amendment to Fundamental Rights Part to ratification by the requisite number of States, did not find favour with the founding fathers, although several amendments were moved in that regard. It would be of interest to note in this connection that amongst the written Constitutions of the world, barring five minor Constitutions, namely, Cambodia, Laos, Libya, the Federal Republic of Germany and the defunct Constitution of Egypt of April, 1923, where provisions have been made for excluding fundamental rights from the scope of the amendment process, in no other Constitution has any specific provision been made excepting the fundamental rights clause from the purview of the amending procedure. Attention should, however, be drawn to the fact that 31 States in the U.S.A. have incorporated with modification the substance of the Declaration of Independence that all men are created equal and are endowed by the creator with certain inalienable rights among which are life, liberty and the pursuit of happiness (Alabama, Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Virginia, West Virginia, Wisconsin and Wyoming) ; 21 States have declared and ordained in their State Constitutions that the enumeration therein of certain rights shall not impair or deny others retained by the people (Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Utah, Virginia, Washington and Wyoming) ; and 8 States have declared and ordained that the natural and inherent rights of the people are

excepted out of the general powers of government and shall for ever remain inviolate (Alabama, Arkansas, Delaware, Kentucky, North Dakota, Pennsylvania, Tennessee and Texas). Even in the Constitution Order in Council of Ceylon although the Parliament is prohibited from making a law abridging or taking away a fundamental right guaranteed under sub-sections (2) and (3) of section 29, the selfsame Parliament is empowered to amend the Constitution, under sub-section (4) of section 29, to take away or abridge fundamental rights, if need be. Curiously enough, of the five Constitutions mentioned above, wherein fundamental rights have been excluded from the amending process, four of them, namely Cambodia, Laos, Libya and Egypt, have made identical provisions in this regard. They all speak of 'the principles of liberty and equality guaranteed' by the Constitution may not be subjected to any motion or revision, review or amendment. As a matter of fact the subject-matter of the clause seeking to exempt items from the amendatory process are practically the same in the four Constitutions. That while the Egyptian Constitution seems to have served as the model for the Constitutional provision in that regard for the Constitution of Cambodia ; Cambodia in turn seems to have served as a source of inspiration for the Constitutions of Laos and Libya which were written subsequently.

Now in the four existing Constitutions, namely Cambodia, Laos, Libya and the Federal Republic Germany, wherein it is specifically laid down that the 'Principles of liberty and equality guaranteed' and the 'Basic Rights' shall not be subject to amendment it is not as if the fundamental rights are unalterable and have been accorded a transcendental position. As a matter of fact in these Constitutions restrictions can be imposed, whenever there is the need for it, by the legislature itself functioning in its ordinary legislative capacity. There is no such provision in these Constitutions analogous to article 13 (2) prohibiting the legislature to impose restrictions on the guaranteed exercise of these rights. Instead they confer enormous amount of power to their legislatures under cover of 'public order', 'general welfare', 'public morality' and so on to impose whatever restrictions are required. Thus for instance article 19 of the Basic Law for the Federal Republic of Germany, after providing for the Bill of Rights in the

previous eighteen articles states :

> Art. 19 (1) in so far as *according to this Basic Law a basic right may be restricted by legislation or on the basis of a law,* the law must apply in general and not solely to the individual case.....

the only restriction on the legislative power is that 'in no case a basic right be affected in its basic content'. This is apart from the fact that practically each one of the rights provided in the 'Basic Law' is subjected to regulation by law.

Similarly, the rights guaranteed to Cambodians in the fourteen articles of the Cambodian Constitution under Title No. 2 entitled 'Liberties, Rights and Duties of Cambodians' are hedged in with all sorts of restrictions apart from conferring on the legislative authority power to regulate the exercise of those rights by law or to impose resrictions under cover of 'public necessity' and 'public order'. So much so there is hardly any need for subjecting these rights to the amendatory process. The purpose, therefore, served by putting a bar on the power to amend the guaranteed exercise of 'the principles of rights and liberties' is only to ensure it being not totally liquidated.

Then, as regard the fundamental rights of the Laotians, which incidentally are recited in the Preamble and not in the text itself as in other Constitutions, are to be enjoyed only within conditions defined by the law apart from the imposition of certain duties consequent on the enjoyment of those rights. Thus it is provided in the Constitution of Laos :

> 'The present Constitution recognises the following as the fundamental principles of the rights of Laotians ; equality before the law, legal protection of the means of existence and the liberties of man within conditions of exercise defined by the law, in particular, individual liberty, freedom of conscience, freedom of speech, writing and publishing, and freedom of assembly and association.'
>
> The Constitution imposes the following duties : service of the country, respect for conscience, observance of solidarity, carrying out of family obligations, attention to work and education, integrity and observation of the law.

The restrictions on the amendatory power, therefore, on fundamental rights is hardly of any consequence and serves the same limited purpose as under the Constitution of Cambodia.

Finally, that although under the Constitution of Libya as many as 28 articles are devoted for the purpose of declaring the rights of the Libians, practically every right states that it shall be regulated by law or that it would be 'within the limits of law', 'subject to public order or morality' and 'in accordace with law'.

Thus, therefore, even in the above mentioned Constitutions wherein specific mention is made that fundamental rights guaranteed shall not be subject to either review, revision or amendment it is possible for the legislative authority in those countries by enactment of a law to whittle down those rights, if need be, to practically nothing to be enjoyed therefrom.

Turning our attention next to other aspects of the amending process, it should be pointed out that every written Constitution provides for an amending clause or clauses to enable adjustments to be made in the basic law, should such an eventuality arise and as pointed out earlier, prescribing a procedure for making such adjustments and entrusting the task of making such adjustments to an authority directly or indirectly specified in the Constitutional document itself. Thus the authority meant for the purpose of making adjustments or amendments to the Constitution, whichever it is, deriving as it does powers from the Constitution exclusively for the purpose, functions in a special and superior capacity and is empowered to amend any provision of the Constitution to enable the due discharge of the functions and obligations imposed by the Constitution on the various authorities created by it.

The framers of the Indian Constitution examined the clause or clauses as well as the authority charged with this function in the various Constitutions of the world and decided on the adoption of the procedure for amendment of the Constitution, exclusively for the purpose in a separate part of the Constitution so entitled. Unlike, some Constitutions of the world, the Indian Constitution did not choose to state specifically the authority in whom the power to amend the Constitution would be vested although it could be inferred from the procedure provided for in

article 368 that the power was vested in the Parliament of India. That the founding fathers deliberately did not choose to specify that the power to amend the Constitution vested in the Parliament is not only evident but also significant. Evident because if it had been otherwise the article would have stated at the outset that the power to amend the Constitution vested in a particular authority. Significant because it was not the intention of the framers of the Constitution to confer on the Parliament of India, as the law-making authority, the power to amend the Constitution. In other words, in so framing the phraseology of the amending clause it was sought to convey that the power to amend the Constitution was not conferred on the Parliament of India which was the legislative authority for the Union Government under the Constitution but on the Parliament of India as an authority, deriving its power from the Constitution, exclusively for the purpose of amending the Constitution. That the Parliament of India was to shed its legislative capacity and to function as a Constituent Assembly, as it were, is evident from the fact that although the Parliament makes the amendment by the legislative process subject to certain restrictions and the amendment so made results in a law, the word 'law' does not figure anywhere in article 368. Therefore, strictly speaking, it is erroneous to think that the Constitution of India has conferred on the Parliament of India, constituted as it is, as a legislative authority, the power to amend the Constitution. Viewed as such, any amendment of the Constitution which might take the shape of a law cannot be subject to article 13(2) as the term 'law' used therein pertains to a legislative enactment and the various subsidiary forms that it would take and not to constitutional amendments.

From the foregoing observations, it is, therefore, clear that the Constitution has not conferred the power to amend the Constitution in the Parliament of India as the legislative organ. By scrupulously avoiding the specific mention that the power to amend the Constitution would vest in the Parliament of India and at the same time prescribing the procedure for amending the Constitution not quite dissimilar from the procedure meant for an ordinary legislative enactment, the framers of the Constitution, to reiterate, did not intend the Parliament of India to function as

a legislative authority while engaged in the process of amending the Constitution, and consequently the amendment they effected, through the procedure prescribed, as a legislative enactment. In other words, the authority in which the power to amend the Constitution was conferred was not a legislative authority and it exercised legislative power while amending the Constitution but a constituent authority exercising constituent power. That is to say that the Parliament of India while acting as a legislative authority had to function within the ambit of authority prescribed for it in the Constitution, the self-same Parliament while amending the Constitution should function as a Constituent Assembly. In view of the representative character of the Parliament, it was not difficult for the Parliament of India which normally functions as a legislative organ for the Union of India to transform itself into a Constituent Assembly for purposes of amending the Constitution. By such a procedure, the framers of the Constitution of India have obviated the necessity for convening a separate Constituent Assembly for the consideration of amendment proposals.

In connection with the above, it is to be said that although in most cases it is the legislative organ that is entrusted with the task of amending the Constitution, while amending the Constitution, it is not functioning in its legislative capacity but in a special, so to say, a constituent capacity. Thus for example in the U.S.A. where the Congress and State legislatures are vitally concerned with the amendment of the Constitution, the Supreme Court, in the case Hollingsworth V. Virginia [3 Dallas 378 (1798)], observed that in submitting an amendment, the Congress was not legislating ; neither was a State legislature doing so when ratifying.

Now having established that the Fundamental Rights Part in the Indian Constitution could be amended by the authority meant for the purpose and through the procedure contained in article 368, it requires to be examined as to what exactly were the Fundamental Rights that were amended, to what extent were they abridged and whether the amendments that resulted in the abridgment of the Fundamental Rights amounted to the taking away or the total denial of those fundamental rights guaranteed to individuals under the Constitution. The articles that were amended were article 15, relating to the Right to Equality ; article 19,

relating to the Right to Freedom ; and article 31, relating to the Right to Property. Article 15 was amended not with a view to abridging the fundamental right to equality but to enable the 'State' the guaranteed exercise of its function under article 46 of the the Constitution. The fundamental right to equality has no meaning in the context of backwardness amongst classes or sections of people unless they were brought up to the level of other citizens of India, which meant that special provision required to be made for their advancement. As a matter of fact the framers of the Constitution were fully aware of this fact and hence had already qualified, to the extent they could anticipate at that moment, the guarantee in respect of the right to equality. Thus, unless their interests were specially protected, the fundamental right to equality, in the Indian context, would have no meaning to backward classes of citizens or to the scheduled castes and to scheduled tribes. Viewed from this angle, the amendment instead of abridging the fundamental right to equality enlarges the freedom, by affording protection to those who would have been otherwise denied. The framers of the Constitution would have certainly made the provision even at the time of the framing of the Constitution, if only they had anticipated that in securing of the constitutional obligation under article 46, the fundamental right to equality or cultural and educational rights would come in the way, as one more limitation or restriction to the relevant article.

As regards the amendment to clause (2) and (f) of article 19, there were already in existence limitations or restrictions on the various forms of right to freedom guaranteed and it was expected by the framers of the Constitution that those limitations or restrictions would be adequate and comprehensive enough, while guaranteeing those forms of freedom, to facilitate the due discharge of functions imposed on the State in public interest. The exercise of the right to freedom of speech and expression was already subject to restrictions imposed in the interests of the security of the State, decency or morality, defamation or in relation to contempt of Court and it was expected that the categories mentioned would cover the necessary limitation or restriction to the freedom of speech in the due discharge of State functions. The amendment merely added three more categories which in no way

further abridged the right to the freedom of speech then existing in view of the fact that the restrictions were going to be 'reasonable'.

Regarding the amendment to clause (f) of article 19, the objective was only to particularise the restriction which was even otherwise there by the existing provision. Since it was a restriction imposed in the interests of the general public, the amendment could not be construed to be a further abridgment on the existing right to freedom to practice any profession, or to carry on any occupation, trade or business.

Similarly in respect of the amendments to article 31, the objective was merely to clarify the limitation to the right to property of an individual for public purpose by giving the owner of property compensation for the deprivation. Since it was found necessary to provide in the Constitution itself the manner in which the amount of compensation would be determined as also the type of property that would be acquired or requisitioned for public purpose, the necessary amendment had to be carried out. It is to be recalled that the article as it was framed by the founding fathers was the product of a compromise between several conflicting views expressed by Members of the Constituent Assembly charged with the function of framing the Fundamental Rights that were to be included in the constitutional document. The conflict was particularly in respect of the compensation question so much so the Drafting Committee left that question to be settled by those who had expressed various views on the subject. However, dissatisfied as they were, in view of the divergent opinions expressed, the Members of the Drafting Committee were obliged to frame the article as elastic as possible. In other words, left to themselves, the framers of the Constitution would have specified the compensation rate on the lines indicated by the amendment subsequently made. Similarly as there were divergent opinions expressed in the matter of the type or types of property that could be acquired or requisitioned for public purpose, that aspect of the question could not also be specified in the article at that time. By and large, however, the consensus of opinion was that there could be deprivation of property for public purpose. Hence the article while permitting the acquisition and requisitioning of every form

of property for public purpose avoided the complicated and conflicting question of any specification in that regard. Thus, therefore, the amendments to article 31 inasmuch as they sought to specify the compensation rate as also the type of property that could be acquired and requisitioned for a public purpose was what the framers of the Constitution would have themselves desired to have been put in the Constitution.

It would be instructive and relevant at this stage to examine the attitude of the judiciary towards the amendment of the Constitution under article 368 vis-a-vis the Fundamental Rights. The question that if the Part relating to Fundamental Rights in the Constitution could be amended under the scheme of the Indian Constitution came up before the Supreme Court thrice till date. For the first time, the question came up in the case Shri Sankari Prasad Singh Deo V. Union of India and the State of Bihar on 5th October, 1951 (1952 SCR 89) wherein the validity of the Constitution (First Amendment) Act, 1951, which inserted, inter alia, articles 31A and 31B in the Constitution was questioned. The amendment was made under article 368 of the Constitution by the Provisional Parliament. The Supreme Court unanimously held in that case (Patanjali Sastri J., speaking for himself and Hiralal Kania C.J., Mukerjea, Das and Chandrasekhara Ayyar JJ.) that Parliament had power to amend Part III of the Constitution. The Court came to that conclusion on two grounds, namely, (1) the word 'law' in article 13(2) was one made in exercise of legislative power and not constitutional law made in exercise of constituent power ; and (ii) there were two articles, 13(2) and 368, each of which was widely phrased and, therefore, harmonious construction required that one should be so read as to be controlled and qualified by the other, and having regard to the circumstances mentioned in the judgment article 13 must be read subject to article 368.

The question came up for the second time in Sajjan Singh V. State of Rajasthan (1965 I.C S.R. 933) in the context of the validity of the Constitution (Seventeenth Amendment) Act. The Supreme Court by a majority of 3 : 2 (Gajendragadkar C.J., Wanchoo and Raghubar Dayal JJ) for the majority and Hidayatullah and Mudholkar JJ. for the minority upheld (i) the correct-

ness of the decision on Sankari Prasad's case although the correctness of the decision in that case was not questioned ; (ii) that the Seventeenth Amendment did not require ratification under the proviso to article 368 because of its indirect effect on article 226 etc., and (iii) that the power conferred by article 368 included the power to take away Fundamental Rights guaranteed under Part III and that the power to amend was a very wide power and could not be controlled by the literal dictionary meaning of the word 'amend' and that the word 'law' in article 13(2) did not include an amendment of the Constitution made in pursuance of article 368. The majority also rejected a request to review the earlier decision on the plea that no case had been made out in that regard. The minority, however, doubted the correctness of the view taken in Sankari Prasad's case to the effect that the word 'law' in article 13(2) did not include amendment to the Constitution made under article 368 and therefore, doubted the competence of Parliament to make any amendment to Part III of the Constitution. Hidayatullah J., speaking for himself observed :

> 'But I make it clear that I must not be understood to have subscribed to the view that the word 'law' in article 13(2) does not control constitutional amendments. I reserve my opinion in that case for I apprehend that it depends on how wide is the word 'law' in that article.'
>
> 'I would require stronger reasons than those given in Sankari Prasad's case to make me accept the view that Fundamental Rights were not really fundamental but were intended to be within the powers of amendment in common with other Parts of the Constitution and without the concurrence of the States.'
>
> 'The Constitution gives so many assurances in Part III that it would be difficult to think that they were the playthings of a special majority.'

Mudholkar J., on the other hand was positive that the result of a legislative action of the legislature could not be other than 'law' and the fact that the legislature dealt with the amendment of a provision of the Constitution would not make its result any the less a 'law'. He further pointed out that article 368 did not say

that whenever Parliament made an amendment to the Constitution it assumed a different capacity from that of a constituent body. Shri Mudholkar doubted whether making a change in the basic features of the Constitution could be regarded merely as an amendment or would in effect be re-writing a part of the Constitution, and if so, whether it could be done under article 368.

More recently the question came up for the third time in the case I.C. Golak Nath and Others Vs. the State of Punjab and Others in connection again with the constitutional validity of the Constitution Seventeenth Amendment. Opportunity, therefore, was availed of to constitute a special Bench of eleven judges of the Supreme Court to consider the correctness of the decision of the Supreme Court in Sankari Prasad's case which was accepted as correct by the majority in Sajjan Singh's case.

The Supreme Court in its judgment in Golaknath's case, delivered on 27th February, 1967, by a majority of 6 : 5 held, inter alia, (1) that Parliament has no power to amend any of the provisions of Part III of the Constitution so as to take away or abridge the fundamental rights enshrined ; (2) that amendment is 'law' within the meaning of article 13(2). Actually there were two judgments on behalf of the majority and three on behalf of the minority. Subba Rao C.J., on behalf of himself, Shah, Sikri, Shelat and Vaidialingam JJ. held : (relevant for our purpose) (1) that the power of the Parliament to amend the Constitution is derived from articles 245, 246 and 248 of the Constitution and not from article 368 thereof which only deals with procedure. Amendment is a legislative procedure ; (2) that amendment is 'law' within the meaning of article 13 of the Constitution and, therefore, it is void ; and (3) that the Parliament will have no power from the date of this decision to amend any of the provisions of Part III of the Constitution as to take away or abridge the fundamental rights enshrined therein. To the question that if the power of amendment was not all comprehensive there will be no way to change the structure of the Indian Constitution or abridge the fundamental rights even if the whole country demanded for such a change, the majority observed firstly that that visualised an extremely unforseeable and extravagant demand ; but even if such a contingency arose, the residuary power of the Parliament might

be relied upon to call for a Constituent Assembly for making a new Constitution or radically changing it and cited Act providing for a Poll on Goa, Daman and Diu as an instance of analogous exercise of such residuary powers by the Parliament although adding that they did not express their final opinion on that important question. To a final appeal made to the Court that they shall not take a different view as the decision in Sankari Prasad's case held the field for many years, the majority observed :

> 'While ordinarily this Court will be reluctant to reverse its previous decision, it is its duty in the Constitutional field to correct itself as early as possible, for otherwise the future progress of the country and the happiness of the people will be at stake. As we are convinced that the decision in Sankari Prasad's case is wrong, it is pre-eminently a typical case where this Court should overrule it. The longer it holds the field the greater will be the scope for erosion of fundamental rights. As it contains the seeds of destruction of the cherished rights of the people the sooner it is overruled the better for the country.'

Hidayatullah J., in his separate judgment held (relevant for our purpose) : (i) that the fundamental rights are outside the amendatory process if the amendment seeks to abridge or take away any of the rights ; (ii) that Sankari Prasad's case (and Sajjan Singh's case which followed it) conceded the power of amendment over Part III of the Constitution on an erroneous view of articles 13(2) and 368 ; (iii) that this Court having now laid down that Fundamental Rights cannot be abridged or taken away by the exercise of amendatory process in article 368, any further inroad into these rights as they exist today will be illegal and unconstitutional unless it complies with Part III in general and article 13(2) in particular ; and (iv) that for abridging or taking away fundamental rights, a constituent body will have to be convoked.

The minority judgment prononuced by Wanchoo J., on behalf of himself, and Bhargava and Mitter JJ. held that Sankari Prasad's case was correct in following that decision. They made a pointed

reference to their reluctance in overruling the decision in Sankari Prasad's case by a slender majority in the instant case in the following terms :

> 'We would be very reluctant to overrule the unanimous decision by the slender majority of one in a larger Bench constituted for the purpose. We say this with great respect and would hold that apart from the principle of Stare Decisis we would not say that the unanimous judgment in Sankari Prasad's case was wrongly decided by such a slender majority in this Special Bench.'

Bachawat J., agreeing with the minority judgment pronounced by Wanchoo J., in a separate judgment, emphatically held inter alia, (i) that article 368 contained not merely the procedure but also the power ; (ii) that under no other article excepting through article 368 that the Constitution could be amended ; (iii) that the framers of the Constitution could not have intended that the term 'law' in article 13(2) would include a constitutional amendment under article 368 and that as article 368 gives the power to amending itself, if express power for amending the provisions of Part III were needed, such a power could be taken by an amendment of the article ; (iv) that the power to amend the Constitution carries with it the power to make a retrospective amendment ; and (v) that to say that the Constitution Amendment Acts that took away or abridged fundamental rights were valid in the past but would be invaild in the future was to amend the Constitution and that such a naked power of amendment of the Constitution was not given to the judges

Ramaswamy J. agreeing with the minority judgment pronounced byW anchoo J., in a separate judgment held : (i) that although 'law' must ordinarily include constitutional law, there is a jurisdic distinction between ordinary law made in exercise of legislative power and constitutional law which is made in exercise of constituent power and that in a federal form of Constitution there is clear and well-known distinction between the law of the Constitution and ordinary law made by the legislature on the basis of separation of powers and pursuant to the power of law-making conferred by the Constitution ; (ii) that the expression 'law' in

article 13(2) cannot be construed as including an amendment of the Constitution which is achieved by Parliament in exercise of its sovereign constituent power ; (iii) that the amending power of Parliament exercised under articles 4, 169, 3°2, Fifth Schedule Part D and Sixth Schedule para 21 stands on the same pedestal as the constitutional amendment made under article 368 so far as article 13(2) is concerned and does not fall within the definition of 'law' within the meaning of article 13(3) ; (iv) that the expression 'fundamental' in the phrase 'Fundamental Rights' means that such rights are fundamental vis-a-vis the laws of the legislatures and the acts of the executive authorities mentioned in article 12 and that it cannot be suggested that the expression 'fundamental' lifts the fundamental rights above the Constitution itself ; (v) that article 368 outlines not merely the procedure but also the exercise of power thereof ; (vi) that the power of constitutional amendment cannot fall within articles 246 and 248 read with entry 97 of List I of the Seventh Schedule because it is illogical and a contradiction in terms to say that the amending power can be exercised and at the same time it is 'subject to the provisions of the Constitution' ; (vii) that if the Constitution-makers had considered that there were certain basic features of the Constitution which were permanent, it was most unlikely that they should not have expressly said in article 368 that those basic features were not amendable ; (viii) that it was not possible to accept as correct that one Part of the Constitution relating to fundamental rights was a basic feature of the Constitution and as such could not be the subject of the amending power under article 368 ; and (ix) that the power to amendment is in point of quality an adjunct of sovereigntv and as such does not admit of any limitations.

Now having stated broadly the attitude of the judiciary in respect of the amendability or otherwise of Part III of the Constitution relating to Fundamental Rights, it requires now to examine in greater detail some of the more important contentions and arguments advanced in the majority judgment in Golaknath's case. But before that is done something has to be said in respect of the nature and character of fundamental rights that have been embodied in Part III of the Constitution in the context of the observations in the majority judgment that

the fundamental rights were given a transcendental position under our Constitution and were kept beyond the reach of Parliament and that at the same time Parts III and IV constituted an integrated scheme forming a self-contained code, elastic enough that all the Directive Principles of State Policy could reasonably be enforced without taking away or abridging the fundamental rights. It should be stated at the outset that a probe into the origins and the circumstances under which Fundamental Rights as enshrined in Part III of the Constitution came to be incorporated and the manner in which they were cast would deny at once the so-called transcendental character accorded to those rights although it is beyond doubt that the framers of the Constitution kept them beyond the reach of not only the Parliament of India but also any authority endowed with original or delegated legislative power. The declaration of fundamental rights for the people of India was insisted upon in any constitutional set-up under the British rule for the development of the typical Indian personality and therefore the realisation of that objective constituted an essential of the national movement. The more averse the British were to conceding such a demand the more intense and imperative became the need for such rights. But then when India became herself (Independent) the need for the declaration of fundamental rights came to be not so much for the development of the typical Indian personality as to ensure the cooperation of the various peoples of India in the tasks of making a Constitution agreeable to as large a number of people as possible.

In this connection it would be worthy to digress a little to point out that the United States experience in this regard had not been different. The framers of the U.S. Constitution were unwilling to provide for a Bill of Rights in their Constitution but were forced to provide for one in order to secure the requisite number of ratification for the Constitution they had framed. It could be gathered from the proceedings of the Philadelphia Convention, 'the Federalist' particularly No. LXXXIV (Lodge's edition p. 537) and the debates in the several State conventions of the Adoption of the Federal Constitution (5 Vols. of J. Elliot) that although at the Philadelphia Convention

a motion to appoint a Committee to draft a federal Bill of Rights was voted down by 10 of the 12 States represented and despite the forceful arguments put forward by Hamilton to convince the several ratifying State conventions that the provision of a Bill of Rights was not only 'unnecessary' but would even be 'dangerous', there were a number of people in a large number of State coventions who thought differently and of the 124 amendments formally proposed by seven of the States when ratifying, the great majority had to do with the need to provide for a Bill of Rights in the Constitution ; and that the requisite number of ratification might not have been obtained at all but for assurances given that the defect would be promptly remedied. As a matter of fact, Madison was chosen to the first Congress under pledge to use his influence to bring about the adoption of a Bill of Rights ; and in June, 1789, he introduced a long series of proposals looking to that end. Thus from the point of view of origin and the circumstance under which fundamental rights came to be incorporated in the Indian Constitution it was nothing more than the fulfilment of an aspiration that was denied by the British and a contrivance for enabling the making of a Constitution acceptable to various peoples of India. That these Rights in Part III were regarded as nothing more than a contrivance for the removal of obstacles in framing India's Constitution is otherwise also evident from the safeguards provided, namely, its judicial enforceability and its being kept beyond the interference of the legislature and at the same time the Rights being hedged in with all sorts of restrictions. Under the scheme of the federal Constitution that India has, there are several other Parts, which, if at all, could be accorded a transcendental position and the least that is entitled to claim such a status perhaps is Part III of the Constitution. However, it is rightly said that Parts III and IV constituted an integral scheme and that Part III was flexible enough to enforce reasonably all the Directive Principles of State Policy and it was with that objective the Drafting Committee did not accept an amendment proposal made by Shri B.N. Rau, India's Constitution Advisor, to the effect that the fundamental rights Part would not constitute an impediment in the reasonable enforcement of Directive Principles

and that if it did the fundamental rights should be modified to enable the enforcement of the Directive Principles (See the Author's book on the Directive Principles of State Policy in the Indian Constitution). It was thought that the judiciary would give due recognition to Part IV. But the judiciary interpreted the integrated scheme and the elasticity thereof in the opposite way, namely that fundamental rights Part would not constitute an impediment in the reasonable enforcement of what was fundamental in the governance of the State but that if it did the latter itself should be modified to permit enforcement within the ambit of Fundamental Rights. This is evident from the following observation of Hidayatullah J , : 'The Directive Principles lay down the routes of State action but such action must avoid the restrictions stated in the Fundamental Rights'. Again, he said in another place in his separate judgment :

> 'While the world is anxious to secure fundamental rights internationally, it is a little surprising that some intellectuals in our country think of the Directive Principles in our Constitution as if they were superior to Fundamental Rights. To them an amendment of the Fundamental Rights is permissible if it can be said to be within a scheme of a supposed socio-economic reform, however, much the danger to liberty, dignity and freedom of the individual under all conditions.'

Now something need be particularly said with regard to Justice Hidayatullah's views in respect of the amendability or otherwise of Part III relating to Fundamental Rights. Hidayatullah J., prefaced his remarks by saying that under the scheme of the Indian Constitution there is no real distinction between ordinary law and the law made in the exercise of constituent power (we have seen how this view is not correct) and making a distinction between 'State' and 'Government' he held that there was nothing to prevent the State from placing certain matters outside the amending procedure and that what happened, the ordinary procedure of amendment ceased to apply —the unlimited competence does not flow from the amendatory process—and that amendment could be made only by a

fresh constituent body. In other words, he contended that in such cases the procedure for amendment of the Constitution becomes similar to the adoption of the whole Constitution. Having said so, he regarded the restrictions under article 13(2) in respect of Fundamental Rights as the one imposed by the 'State' and perhaps the only one of its kind in the Constitution and hence outside the amending procedure under article 368, being amendable legally, if need be, only through a freshly convened Constituent Assembly by an amendment of article 368 and the passing of a law under item 97 of List I of the Seventh Schedule. Thus he observed :

> 'The whole Constitution is open to amendment. Only two dozen articles are outside the reach of article 368. That too because the Constitution had made them fundamental..... (and for its amendment) .....There is a legal method. Parliament must act in a different way to reach the Fundamental Rights. The State must reproduce the power which it has chosen to put under a restraint. Just as the French or the Japanese etc., cannot change the article of their Constitution which are made free from the power of amendment and must call a convention or a Constituent Assembly. so also we in India cannot abridge or take away the fundamental rights by the ordinary amending process. Parliament must amend article 368 to convoke another Constituent Assembly, pass a law under item 97 of the First List of Schedule 7 to call a Constituent Assembly and then that Assembly may be able to abridge or take away the Fundamental Rights if desired. It cannot be done otherwise.'
>
> 'To be able to abridge or take away the fundamental rights which give so many assurances and guarantees a fresh Constituent Assembly must be convoked. Without such action the protection of the fundamental rights must remain immutable and any attempt to abridge or take them away in any other way must be regarded as revolutionary.'

Thus according to Hidayatullah J., Parliament as a constituted body was endowed with powers to legislate which included amendments of any provision of the Constitution by a special

majority, but so far as fundamental rights were concerned although Parliament had the power to better it. it could not abridge or take them away. His precise observations in this regard were :

> 'Parliament today is a constituted body with powers of legislation which include amendments of the Constitution by a special majority but only so far as article 13(2) allows.'
>
> 'Parliament today is not the constituent body as the Constituent Assembly was, but is a constituted body which must bear true allegiance to the Constitution as by law established. To change the Fundamental Part of the individual's liberty is a usurpation of constituent functions because they have been placed outside the scope of the power of constituted Parliament.'
>
> 'Of course, it is always open to better fundamental rights. A law or amendment of the Constitution would offend the fundamental rights only when it attempts to abridge or take them away.'

To the question, therefore, whether it was at all possible to amend the Part relating to fundamental rights so as to abridge or take them away, if and when there was an imperative need for it, Hidayatullah J., expressed a final opinion unlike the rest of the majority. Further that while Subba Rao C.J. and his four other colleagues in the majority judgment were not quite sure about the precise method by which the said amendment of fundamental rights could be made inasmuch as they said that 'the residuary power of the Parliament may be relied upon to call for a Constituent Assembly and suggested the recent Act providing for a Poll in Goa, Daman and Diu as an instance of analogous exercise of such residuary power by the Parliament'. Hidayatullah J. was quite sure about the precise method. According to Hidayatullah J., for the purpose of amendment of fundamental rights in Part III, so as to abridge or take them away, the precise method was for Parliament to amend article 368 and to pass a law under item 97 of the Union List in the Seventh Schedule thereby enabling it to convene a Constituent Assembly. That is to say that article 368 must first of all be amended to make a specific provision, which is of course possible by virtue of clause (e) of the proviso to article

368, either by the addition of a separate clause or a proviso to the effect that if any amendment proposal seeks to amend Part III that could only be done by convening a Constituent Assembly under item 97 of List I of the Seventh Schedule. The above separate clause or the proviso might also contain a marginal note 'Special procedure for the amendment of Part III'. Secondly, item 97 of List I of the Seventh Schedule to be modified in the following manner :

> '97. Convening a Constituent Assembly, specifically for the purpose of amendment of Part III and any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.'

Now before we examine the permissibility or otherwise of convening of a Constituent Assembly within the framework of the Indian Constitution, its desirability, implications etc., it should be said that the Opinion Poll Act, mentioned in the majority judgment cannot be considered as an instance of an analogous exercise of residuary power by the Parliament. That Act was enacted in the ordinary course of legislation under the residuary power contained in entry 97, List I and was intended to ascertain the wishes of the people of Goa about the merger with Maharashtra and the wishes of the people of Daman and Diu about merger with Gujarat. The Opinion Poll Act need not have been passed for the objective since under article 3, Parliament had absolute power to enact a law amalgamating parts of the territory of India but all the same the Opinion Poll Act was passed merely to elicit information in that regard and to ensure the proper exercise of that power. The Act had nothing to do with the amendment of the Constitution, nor was it passed under article 368.

The more important question is the permissibility or otherwise of convening a Constituent Assembly within the scheme of the Indian Constitution and the implication if such a body is set up for the limited objective of amendment of Part III, which as we have already pointed out is not such a basic feature of our Constitution as compared to many others. One can pertinently ask that if Parliament assuming for a while that it is empowered to amend the Constitution in its legislative capacity, which is not so,

cannot amend fundamental rights because it is a constituted authority, as to how a Constituent Assembly created by it through a statutory enactment and thus itself becomes a constituted authority, could have the power to amend the Constitution. It amounts to doing things indirectly what could not be done directly, and to confer the power to the creature that is denied to the creator. Certainly this is not permissible. Further, it could be asked whether such a body created by Parliament would not come within the meaning of 'State' under article 12 and that a law passed by it would not come within the meaning of article 13(2). Certainly a Constituent Assembly constituted by a law of Parliament would come within the inclusive definition of 'State' for purposes of article 12 as Parliament itself comes under the definition apart from the fact that it would be covered under the category 'other authorities within the territory of India or under the control of the Government of India'. This is also evident from the Supreme Court's judgment in the case Electricity Board, Rajasthan V. Mohan Lal (AIR 1967 SC. 1857) decided by the Supreme Court on April 3, 1967 wherein it was held by a majority of 4 : 1 :

> 'that the expression 'other authorities' occurring in the definition of 'State' contained in article 12 was wide enough to include within it every authority, whether constitutional or statutory, created by statute and functioning within the territory of India or under the control of the Government of India.'

Thus atleast it could be said that the objective of amendment of Part III cannot be achieved by the creation of a Constituent Assembly through the enactment of Parliament. Of course it would have been a different matter if it had been suggested that the power to amend Part III vested in a Constituent Assembly of India convened by the people of India in whom the sovereign power was vested and that the specific amendment proposal relating to abridgement or taking away of fundamental rights in Part III was referred to it. This might necessitate the dissolution of the existing Parliament and reconvening of the same or constituting a new Parliament for the adoption of the amendment proposal considered and approved by the Constituent Assembly. A

Constituent Assembly convened in such a manner would not come within the purview of the definition of 'State' under article 12 and consequently any proposal by it that is subsequently adopted under article 368 would not come within the meaning of 'law' under article 13(2). But this procedure again of subjecting an amendment proposal to a sort of referendum is neither permissible under the Constitution nor practicable or desirable. Referendum, in the sense of finding out the acceptability or otherwise of legislative and other proposals by the people of India, did not find favour with the founding fathers and were rejected by them as unsuitable to our conditions. Above all one would wonder that in view of an amending clause, the provision of which is an attempt to arrange for the re-creation of a Constituent Assembly, and that too silent about a Constituent Assembly for purposes of amendment, whether there is any justification for a Constituent Assembly.

Now with regard to the following observations of Hidayatullah J. :

> 'Of course, the liberty of the individual under our Constitution though meant to be fundamental is subject to such restrictions as the needs of society dictate. These are expressly mentioned in the Constitution itself in the hope that no further limitations would require to be imposed at any time',

and,

> 'The Constitution permits of curtailment of the exercise of most of the fundamental rights by stating the limits of that curtailment. But this power does not permit the State itself, to take away or abridge the rights beyond the limits set by the Constitution',

it need merely to reiterate what had already been said that the limitations imposed by the framers of the Constitution on fundamental rights should not be taken to mean that they were the only ones that could be imposed, exhaustive and complete in itself, although they are quite comprehensive. It is impossible to think that the framers of the Constitution would have anticipated every type of limitation that required to be put on the enjoyment of

fundamental rights, excepting all those that could suggest to them at the time of the framing of the Constitution in view of the dynamic character of society. The limitations on Fundamental Rights, fairly comprehensive as they are, are merely indicative of the fact that unrestrictive fundamental rights are not guaranteed under the Constitution and that further limitations could be imposed, consequent on social changes, through changes in the fundamental document alone and, that is through constitutional amendments.

From the above analysis it is clear that the basic approach to the whole question of fundamental rights is based on the erroneous understanding of the nature of fundamental rights that are incorported in the Indian Constitution. Consequently a number of issues were raised in the Golak Nath's case. It is, therefore, necessary to answer those issues and establish beyond doubt that Part III of the Constitution is as much amendable as any other provision in the Constitution, under article 368 of the Constitution.

The very first contention is that the Constitution is intended to be permanent and therefore, it cannot be amended in a way which would injure, maim or destroy its indestructible character. Now, it is beyond doubt that Constitutions are meant to be enduring and it is to ensure that the tendency is to get the constitutional document in the written form. But that does not mean that the Constitution is something which once written cannot be altered for generations to come under any circumstance whatsoever. A Constitution is a means to an end which is the good Government of a country and the adjustment of the varying and often conflicting rights and duties of its inhabitants. Consequently to treat an existing Constitution as an end in itself is to confuse means with ends and to forget the very purpose for which the Constitution was called into being. If no provision were made for the amendment of the Constitution, there would be no legal way of meeting the changed needs of the times and the Constitution would have to be forcibly subverted. It was because of this fact Burke aptly remarked that 'a Constitution without some means of change is without the means of conservation.'

The second contention is that the fundamental rights are a part of the basic structure of the Constitution and, therefore, the power of amendment can be exercised only to preserve rather than to destroy the essence of those rights. Now, strictly speaking, to suppose that fundamental rights constitute a part of the basic structure is erroneous as unlike some of the Constitutions which distinguish specifically the basic structure from the secondary ones and seek to arrange to a certain extent, the subject-matter of the constitutional document in the order of their importance, the Indian Constitution makes no such distinction and in each one of the XXI Parts (Part XXII relates to Short title, Commencement and Repeals) and the Schedules describes the structure, each one of them being basic in its own way. The Part relating to fundamental rights in the Indian Constitution, is, therefore, like any other Part of the Constitution. It is not what the judiciary, the executive or the legislature that regards as basic constitutes the basic structure but what is regarded by the framers of the Constitution, under the scheme of the Constitution, as basic constitutes the basic structure. For instance, the judiciary cannot regard the Part relating to Fundamental Rights as constituting the basic structure simply because of the title of the Part as such or because of the nature of restriction imposed under article 13(2) and that the Part relating to the Directive Principles of State Policy is less basic than the Part relating to Fundamental Rights as the former are non-justiciable in a court of law, Conversely, the legislature cannot regard the Part relating to the Directive Principles of State Policy as constituting the basic structure or that it is more basic, although it is so in a way, than the Fundamental Rights Part as the Constitution states specifically that the Directive Principles should be regarded by the legislature and the executive as 'fundamental in the governance of the State'. Under the federal scheme of the Constitution of India the relationship between the Union and the component parts and the institutions that seek to symbolise, preserve and perpetuate that relationship constitutes, if at all, the basic structure. Thus the election of the President or the manner of his election, the extent of the excutive power of the Union or of the States, the scheme of the judiciary, the repre-

sentation of States in Parliament, the distribution of the legislative powers and the amendment of the Constitution constitute the basic structure under the scheme of our Constitution or at least more basic than other aspects of the Constitution. Thus, therefore, when Subba Rao C.J. referred to the anomaly involved in more important subjects like fundamental rights being amended by a majority prescribed in article 368 without the proviso, and the less important matters being amended only after ratification by the States, he overlooked the reason for enacting the proviso and the extreme importance in a federation of provisions regulating the relations between the Union and the States.

In another sense also it could be pointed out that the framers of the Constitution could not have considered Part III and the fundamental rights contained therein as 'fundamental' or 'basic' and accorded that Part alone a trancendental character and kept it beyond their amendability, particularly, when equally fundamental or basic provisions could be amended under article 368. Thus for instance it could not be disputed that the provisions of Part IV which are 'fundamental in the governance of the State' and one of the most important of positive liberties, the right to vote, provided for not in Part III or Part IV but elsewhere in article 326 could be treated as 'less fundamental' than Part III and hence beyond amendability under article 368, unless the Constitution recognised two types of fundamentals, one liable to amendment and another not liable to amendment, which is not the case. It could, therefore, be said in this connection that the protection of rights conferred by the Constitution on citizens or on any person, that the importance of those rights or its 'fundamental' character is due not to the Part in which they are to be found, but to the fact that the Constitution had conferred them. Thus the right to carry on trade or business is in the Part on fundamental rights bu t the freedom of trade and commerce is in Part XII and as suc h it is impossible to say that the freedom of trade and commerce is less important than the right to carry on trade or business.

Thirdly, it is contended that the debates in the Constituent Assembly, particularly the speech of Shri Jawaharlal Nehru and

the reply of Dr. Ambedkar who piloted the Bill disclose clearly that it was never the intention of the makers of the Constitution by putting in article 368 to enable the Parliament to repeal the fundamental rights ; the circumstances under which the amendment moved by Shri H.V. Kamath was withdrawn support the contention that amendment of Part III is outside the scope of article 368.

Now with regard to the speech of Pandit Nehru, it is in reference to the one Shri Nehru made on 30th April, 1947 in proposing for the adoption of the interim report on Fundamental Rights when many of the more important aspects of the Constitution had not been considered, discussed or adopted by the Constituent Assembly, such as the Directive Principles of State Policy or the amendment of the Constitution. The utterance was made in a particular context not so much to establish the immutable or transcendental character of fundamental rights but to indicate that they had secured for the people of India a charter of rights which was denied to them by the British and for which they had been agitating during the national movement prior to India's Independence. The process of Constitution-making earlier had failed because the British were averse to any declaration of rights in any of the constitutional reforms for the Indian people and therefore it became necessary to incorporate a chapter on fundamental rights so as to ensure the active cooperation of the masses of India in the making of the Constitution. What exactly was the nature of fundamental rights in the framework of the Indian Constitution, according to Pandit Nehru, should, therefore, be seen from speeches made by him after the entire Constitution had been made, if possible fundamental rights considered vis-a-vis the amendment of the Constitution or any other aspect of the Constitution. The Constitution First and Fourth Amendments, which he himself piloted and which altered the Fundamental Rights, in themselves show that Pandit Nehru did not regard Fundamental Rights as permanent. The speeches then made show that he regarded Fundamental Rights as something 'static' as against the Directive Principles which he characterised as 'dynamic' and that if the former conflicted with the latter, the Fundamental Rights could be amended so as to meet the requirements of the Directive

Principles. In other words, it was Shri Nehru's view that the constitutional document was of a permanent nature and that if its transcendental character was in jeopardy or stood as an impediment to the fulfilment of its objectives, every effort should be made to adjust any and every part of the Constitution, including the Part relating to Fundamental Rights, to save the Constitution or to remove the impediment. If the speech of Shri Nehru of April 30, 1947 was meant to accord fundamental rights a permanent character, certainly he would not have been a party to its so-called liquidation through the First and Fourth Amendments.

Similarly, the speech of Dr. Ambedkar was made in a particular context as otherwise he would not have been a party to the Constitutional First Amendment. The observation made in the majority judgment in this regard shows as if Shri Kamath posed a specific amendment and Dr. Ambedkar gave an answer to it. Shri Kamath's amendment proposal of September 18, 1949 had no bearing specifically regarding the amendability or otherwise of fundamental rights since what he wanted to achieve through the several amendments apart from the one mentioned in the judgment was, inter alia, to lend a flexible character to the entire Constitution which was otherwise tending to be more rigid particularly by the amendment then proposed by Dr. Ambedkar to article 304 (of the Draft, corresponding to article 368 of the Constitution). As a matter of fact the general tenor of speeches made by a large number of members on that occasion was that the Constitution was tending to be rigid which was not desirable and as such proposals were made to make it as flexible as possible, for instance the proposal regarding the making of amendment possible during the first few years of the working of the Constitution by a bare majority which stood in the name of Shri Jawaharlal Nehru that was not moved and over which Shri Kamath himself lamented. That being so, Dr. Ambedkar's reply was directed towards answering not to that particular question of Shri Kamath but to the more general scheme of the amending process in the Constitution. He was keen on establishing that the Constitution was flexible enough to amend any provision of the Constitution. To substantiate his contention in that respect he classified the various articles of the Constitution into three categories, without any exception

whatsoever, and said that barring the first category of articles which could be amended by Parliament by a bare majority, the mention about which was not made in article 368, the other two categories of articles could be amended by the rather somewhat rigid procedure contained in article 368. In other words what Dr. Ambedkar sought to convey on this occasion was that the procedure for the amendment of the Constitution that the Drafting Committee and the framers of the Constitution had proposed was the most fascile and flexible one, enough to amend any provision of the Constitution and as such there was no need to provide for a more easy method of amendment and least of all to make a specific provision in article 368 itself that any provision of the Constitution could be amended by Parliament by a simple majority during the initial years of the working of the Constitution. He merely wished to draw the attention of the members of the Constituent Assembly to the fact that despite the rather rigid procedure envisaged for the amendment of the Constitution under article 368, it was still possible for Parliament to make adjustments and alterations in respect of a number of provisions in the Constitution, through its legislative powers without actually resorting to article 368, to meet the requirements of changing circumstances. Now in the process of distinguishing between the second and third categories of articles that could be amended, the former without the requirement of ratification by the State legislatures and the latter with the ratification by the State legislatures, he wished to drive home the point by actually citing provisions in that behalf. But unfortunately he could not readily recall the exact Parts or Chapters besides article 304 which were included in the proviso and that the words Part III just slipped out along with article 304 while he actually meant, perhaps, the provisions relating to the judiciary of the Union or the States contained in Chapter IV of Part V or Chapter V of Part VI. That this was the slip of the tongue, if not a printer's devil, which is not uncommon in the Constituent Assembly debates, was obvious in view of the inclusion of article 304 in the proviso and the non-acceptance by Dr. Ambedkar of Dr. P.S. Deshmukh's amendment for the inclusion of Part III in the proviso. A further proof of the fact that Dr. Ambedkar did not regard Part III as absolute and unalterable is

evident from his speech of 25th November, 1948 when in the context of fundamental rights vis-a-vis the provision relating to the amendment of the Constitution, so to say, he said that every provision of the Constitution, including of course the provisions relating to fundamental rights, could be amended, in effect, by two-thirds majority in the Parliament.

Fourthly, it is contended that article 368 merely lays down the procedure to amend and that the power to amend the Constitution is derived from articles 245, 246 and 248 of the Constitution read with entry 97 of List I of the Seventh Schedule. Now this contention is also untenable since first of all it is inconceivable that power should be located at one place and procedure at another, particularly when an exclusive Part entitled 'Amendment of the Constitution' is devoted for the purpose. Even otherwise it could not be said that the power to amend could not be located in article 368 itself. The fact that no specific mention is made that the power to amend is conferred on any particular body in article does not deny the existence of the power in the article. As already observed elsewhere, the framers of the Constitution, deliberately avoided specific mention being made regarding the authority or body in which the power to amend was being conferred as by and large, the power to amend the various provisions of the Constitution was being vested in the Parliament of India which also happened to be the legislative organ for the Union of India. Lest it may be misunderstood that the power to amend the Constitution was vested in the legislative organ functioning in that capacity, particularly when the procedure for the amendment of the Constitution under article 368, by and large conformed to the ordinary legislative procedure, specific mention was not made in that regard in article 368. Further as some provisions of the Constitution could only be amended after it had been ratified by the requisite number of States there was the difficulty in making any specific marginal note in respect of the power to amend the Constitution. Thus, therefore, to avoid the confusion consequent on specific mention being made and the fact that a certain category of provisions could be amended exclusively by the Parliament of India and another category, mentioned in the proviso conjointly, so to say, by the Parliament of India and one half of the State legis-

latures, article 368 was cast in the form in which it exists. In the marginal note it was specifically stated 'Procedure for amendment of the Constitution' to draw attention to the distinctive character of the amendment procedure rather than to establish that article 368 merely laid down the procedure. In view of the categorisation of the various articles of the Constitution into two types for purposes of amendment under article 368 and in view of the authority or body on which power to amend the Constitution was conferred and also in view of the manner in which the said authority was expected to function, the marginal note had necessarily to be in that form. It could even be said that any other marginal note other than the one mentioned in article 368 would be inappropriate. Further it was felt that to make a specific mention that the power to amend was vested in the Parliament of India was hardly necessary and redundant since it was stating the obvious. The legislative history of article 368 (see Chapter on the Evolution of article 368) would testify to this statement. Besides, the occurrence of the clause 'the Constitution shall stand amended in accordance with the terms of the Bill' in the substantive part of article 368 is significant and indicates beyond doubt the location of the power to amend in article 368 itself. The Constitution does not stand amended in terms of a Constitution Amendment Bill as initiated but in terms of its approval by the two Houses of Parliament with the requisite majority. Nor does the Constitution stand amended in terms of the Act after the Constitution Amendment Bill as passed by the two Houses of Parliament had received the Presidential assent. The essential requirement for purposes of amendment, therefore, is the approval by the two Houses of Parliament with the requisite majority and that locates the power to amend the Constitution.

It is worthy to note in this context that although Chapter VIII of the Constitution of Australia which deals with the amendment of the Constitution, is cast almost in a similar form as Part XX of the Indian Constitution, namely, the Chapter is entitled 'Alteration of the Constitution', the marginal note reads 'Mode of altering the Constitution' and the opening words of Section 128 states, 'This Constitution shall not be altered except in the following manner' nobody could deny that the power was

not contained in it. The provisions relating to amendment necessarily imply power because when the procedure indicated therein was followed, the Constitution stood amended.

Now that the power to amend the Constitution is located in article 368 itself, it is unnecessary to look for it elsewhere in the Constitution or outside it, particularly for the amendment of Part III of the Indian Constitution. However, let us examine if the power to amend the Constitution could be located in articles 245, 246 and 248 read with entry 97 of List I of the Seventh Schedule. Firstly, it should be pointed out that they are not the appropriate articles wherein the power to amend the Constitution should be located as those articles relate to the distribution of legislative power between the Union and the States or more precisely to defining the legislative relationship between the Union and the States in the Federation and not specifically to the amendment power. Secondly, the articles in question merely indicate that the residuary power of legislation is vested in Parliament. Neither article 248 nor entry 97 give any indication as to the nature of residuary power conferred on the Parliament. The article and the Schedule are so generally worded that at best it could be said that the power of amendment is implied in them. But that is far-fetched and untenable. To say that the power to amend is not implied in article 368 but that it is implied in article 248 is ununderstandable. Further to argue that the power to amend is located in the indefinite character of the residuary power as against practically an express provision in that regard in article 368 amounts to the refusal of seeing the obvious. It would be rather strange to say that the framers of the Constitution had provided for an express provision with regard to the procedure to be adopted for amending the Constitution without at the same time not providing for an express provision in the Constitution with regard to the power or the machinery that would adopt the procedure indicated in the marginal note to article 368. The fact that it was not expressly provided for in List I or as a matter of that in any of the Lists or articles in the part relating to the distribution of legislative power establishes beyond doubt not only that the power to amend is not to be located there but also that the power of amendment is something

different from the ordinary legislative power. If the power to amend was a legislative power, in view of its importance and imperative need in written Constitutions as such and a federal type of Constitution such as ours, and that if it was sought to be conferred on the Parliament as the legislative organ, it should have been specifically mentioned in List I of the Seventh Schedule. The fact that no such specific mention was made shows clearly the futility of locating the power of amendment either in article 245 or 246 or in article 248 read with entry 97 of List I of the Seventh Schedule. Further entry 97 of List I contains the residuary power of legislation, including the power to impose a tax not mentioned in Lists II and III. Since the legislative power of Parliament under entry 97, List I is exclusive, the power to amend cannot be located in that entry because in respect of the matters covered by the proviso to article 368, Parliament does not have, as already pointed out, exclusive power to amend the Constitution. In other words, it means that in respect of a part of entry 97 the power was exclusive and in respect of another part not exclusive—since ratification by States is necessary in matters covered by the proviso to article 368—and that a law under that part of the entry was freed of all provisions of the Constitution except article 368, and was to be enacted not by the ordinary procedure for making laws, but by the special procedure prescribed by article 368. Such a construction is totally opposed to the whole scheme of the distribution of legislative power and hence unacceptable.

Fifthly, it is contended that an amendment of the Constitution under article 368 is law within the meaning of article 13(2) and hence Part III relating to fundamental rights cannot be abridged or taken away by an amendment of the Constitution under article 368. As a matter of fact a good part of the majority judgment in Golaknath's case is devoted to establishing that an amendment of the Constitution can be nothing but law and there is no difference between the legislative process and the amendment process and further that an amendment cannot be done except through a legislative process. Thus the majority judgment emphasised at different places :

> 'In short, amendment cannot be made otherwise than by following the legislative process.'

'That an amendment is made only by legislative process with or without conditions will be clear if two decisions of the Privy Council are considered in juxtaposition. They are McCawley V. The King (1920 A.C. 691) and the Bribery Commissioner V. Patrick Ranasinghe (1964 2 W.L.R. 1301) .....In the premises, an amendment of the Constitution can be nothing but law.'

It should be said at the outset in respect of the above contention that although in the comprehensive sense, law means the statutory law as well as case law which affects the Constitution, the term constitutional law means only that law contained in constitutional document and laws passed to change or amend the Constitution by some process, as set out in the original Constitution. Constitutional law pertains to the formulation of the Constitution or its enactment and making alterations in the body of a constitutional document. That is to say, the enactment of the Constitution by a Constituent Assembly and the subsequent enactment made by the authority empowered to change or amend the Constitution pertains to the Constitutional law. It should be pointed out that although the authority empowered to change or amend the Constitution is nothing more than the ordinary legislature acting under certain restrictions and the process it adopts is not very much different from the ordinary legislative procedure, inasmuch as it seeks to bring about changes in the constitutional document, what it enacts is constitutional law. The difference between constitutional law and statutory law is brought out clearly by C.F. Strong in 'The Modern Constitutions' in the following words :

'In its widest sense it (law) means any statute law or case law which affects the Constitution. In a narrow sense it means only that law contained in a document called the Constitution, and laws passed to change or amend the Constitution by some process, as set out in the original Constitution.

Now, it is clear that a non-documentary Constitution like Britain's, has no constitutional law in this narrow sense. It is also evident that a documentary Constitution which lays down no special conditions as to its amendment—as

was the case, for example, with the original Italian Constitution before Mussolini made it a dead letter—can have no amending constitutional law in this sense. The essential difference, then is between the methods of bringing about changes in them.

Most Constitutions state that this branch of law must be passed by a method different from that used in the ordinary business of legislation. Such are rigid Constitutions. Some others make no such distinction. Under such Constitutions the body responsible for any legislation is responsible for all legislation, constitutional or otherwise. These are flexible Constitutions, and the thing that characterises the state to which such a Constitution applies is the unlimited authority of its Parliament.

The simplest way to grasp the distinction between these two kinds of law is to consider how rigid Constitutions have, most commonly, come into existence. In most cases they have been born of the deliberations of a special body called a Constituent Assembly. The business of such a body is not to enact ordinary legislation but to devise an instrument of government within the limits of which the ordinary legislature shall function.

The Constituent Assembly knowing that it will disperse and leave the actual business of legislation to another body, attempts to bring into the Constitution that it promulgates as many guides to future actions as possible. If it wishes as it generally does, to take out of the hands of the ordinary legislature the power to alter the Constitution by its own Act, and since it cannot possibly foresee all eventualities, it must arrange for some method of amendment. In short, it attempts to arrange for the re-creation of a Constituent Assembly whenever such matters are in future to be considered, even though that Assembly be nothing more than the ordinary legislature acting under certain restrictions.' (pp. 139-40 and 152)

All the same there is no evidence to show that the framers of the Constitution intended to include constitutional law in the inclusive definition of 'law' in article 13(3). The expression 'law'

in the context of article 13(2) is an inclusive definition in the sense that it includes not merely laws made by the legislature in its legislative capacity but also 'laws' made by the executive by virtue of delegated powers of legislation which take the forms of 'bye-laws' rules, regulations and notifications' ; administrative rules, orders and regulations which have a force of 'law' ; orders and ordinances (except those promulgated during the emergency under article 359) promulgated by the President when the legislature is not in session and which have a force of 'law' ; and customs and usages, which again have the force of 'law', and nothing more than that. It does not take in constitutional law. That the expression 'law' in article 13(3) does not include constitutional law is also evident from article 13(1) which lays down 'that all laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall to the extent of such inconsistency be void', when no constitutional provision or law remained after the repeal of article 395. Further the fact that a certain category of articles could be amended by Parliament by a simple majority does not take away the distinctive character of constitutional law. Mention is made in this regard of articles 4, 169, 239A, para 7 of Schedule V and para 21 of Schedule VI which provide for an amendment of the Constitution. Now, the procedure for making a law under article 3 is not the ordinary procedure for making laws but requires that a Bill proposing such law must be sent to the legislatures of the States affected, for expressing their views and only when those views are received or the time for sending them has passed that the Bill could be introduced in Parliament. Again, under article 169 the power of Parliament to pass a law can be exercised only if the Legislative Assembly of the State passes a resolution by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting. Article 239A relates to the creation of local legislatures or Councils of Ministers, for the Union Territories. Now under the scheme of the Constitution the Union Territories are to grow under the patronage and parental care of the Central Government and as such it was

necessary that vital matters concerning them are left to the care of Parliament to be regulated in its legislative capacity. Schedules V and VI deal with areas which are specially the concern of the Union Government and of Parliament and it was only too proper that their administrative set-up, under the scheme of the Constitution was regulated by the Parliament of India. But the power is a specific power contained in the five provisions and is not a power in any legislative List nor is it a residuary power. It is stated under each one of these articles that any such law made under it 'shall not be deemed to be an amendment of this Constitution for the purpose of article 368' notwithstanding that it contains any provision which amends or has the effect of amending the Constitution. The constituent power thus conferred is covered by the opening words of article 245 which confers legislative power 'subject to the provisions of this Constitution' and therefore the validity of such law cannot be questioned on the ground that it amends the Constitution. Thus it was that Ramaswamy J., in his separate judgment in Golaknath's case had observed that the amending power of Parliament exercised under the above articles stood on the same pedestal as the Constitution amendment made under article 368 so far as article 13(2) was concerned and did not fall within the definition of law under it. Attention is to be drawn to the fact that article 169 itself formed a part of article 304 and the Drafting Committee at a late stage (See Chapter I) shifted it to its existing Part as being its appropriate place.

By the addition of a specific clause, under each one of the above three articles and the two Schedules, that a law made by Parliament in regard to them shall not be 'deemed' to be an amendment of the Constitution, although the effect of the law is the same as that of an amendment, the framers of the Constitution sought to convey that they distinguished between 'law' made by Parliament in its legislative capacity and 'amendment', by and large carried out by the same body under a different capacity. The specific mention in each one of the above articles and the Schedules that a law passed by Parliament, in its legislative capacity, shall not be considered (deemed) 'an amendment of this Constitution for the purpose of article 368' shows that for the

purpose of amendment of the various provisions in the Constitution one has to look to article 368 and that if an amendment was to be carried out it should be only through article 368.

Then there is another set of observations in the majority judgment which requires to be answered, namely, firstly :

> 'The importance attached to the fundamental freedoms is so transcendental that a Bill enacted by a unanimous vote of all the members of both the Houses is ineffective to derogate from its guaranteed exercise,'

secondly :

> 'It is not what the Parliament regards at a given moment as conducive to the public benefit, but what Part III declares protected, which determines the ambit of the freedom,'

and thirdly :

> 'If the decisions in Sankari Prasad's case and Sajjan Singh's case laid down the correct law, it enables the same Parliament to abrogate them with one stroke, provided the party in power singly or in combination with other parties command the necessary majority.'

With regard to the first observation it need merely be said that this is so in the case of practically every provision of the Constitution if Parliament were to function in its legislative capacity. The Bill should be a Constitution Amendment Bill and the procedure should be as contained in article 368. No provision in the Constitution could be amended in the ordinary legislative process by the Parliament although there is a unanimous verdict on it. The answer to the second observation would be : precisely so. But Parliament functioning in its constituent capacity could clarify what is declared protected if the judiciary by the process of interpretation arrives at a different conclusion. Neither the Parliament nor the judiciary functioning in their normal capacity and charged with the functions they are to perform could determine the ambit of freedom declared protected in Part III. Then with regard to the third observation it should be said that such an observation presupposes that Parliament's primary concern is to connive at the destruction of the provisions of the

Constitution, a sort of distrust in Parliamentary System of Government run on Party basis. At least the working of Parliamentary System and Party Government in India does not warrant such a conclusion to be arrived at. Further, as it has already been pointed out it is not the 'same Parliament' (meaning thereby the Parliament which under the Constitution is the legislative body) that is given the power to the so-called abrogation of fundamental rights which could not be taken away or abrogated under article 13(2) of the Constitution. In this connection it requires to be clarified that article 13(2) does not expressly say, as is contended in the majority judgment, that the provision contained in Part III cannot be amended ; merely states that Parliament cannot make a 'law' abrogating or taking away the rights guaranteed in Part III. It is not as if that a prohibition on the legislative power ipso facto operates on the exercise of constituent power specifically provided for in the constitutional document itself. What is denied to a body in one capacity can be given to it in another capacity. The two powers can co-exist in the same authority if it is understood that in the exercise of one set of power the authority assumes a particular role and in the exercise of another it assumes another role. There is no contradiction in holding such a view nor does such a view amount to 'speaking in two voices'. The majority view was therefore wholly incorrect when they said :

> 'While a single fundamental right cannot be abridged or taken away by the entire Parliament unanimously voting to that effect, a two-thirds majority can do away with all the fundamental rights. The entire superstructure built with precision and high ideals may crumble at one false step. Such a conclusion would attribute unreasonableness to the makers of the Constitution, for in that event they would be speaking in two voices.'

It needs to be pointed out further at this juncture that it was wholly erroneous for the majority in Golaknath's case to categorically assert that :

> 'As none of the Constitutions contains provisions similar to article 368 and article 13(2), neither the said Constitutions nor the decisions given by courts thereon would be of any

assistance in constructing the scope of article 368 of our Constitution,'

or still further to hold that :

'There is no article in any of the Constitutions referred to us similar to article 13(2) of our Constitution. India adopted a different system altogether : it empowered the Parliament to amend the Constitution by the legislative process subject to fundamental rights.'

At least it was not justified for the majority in the Golaknath's case to make such an observation, knowing as they did the existence of such a provision in the Ceylon (Constitution) Order in Council, 1946. Article 29 of the above mentioned Order which is the constitutional document for the governance of Ceylon, in its four clauses contains the substance of the provisions contained in articles 368 and 13(2) of our Constitution. The article reads as follows :

29. (1) Subject to the provisions of this Order, Parliament shall have power to make laws for the peace, order and good government of the Island.

(2) No such law shall—

(a) prohibit or restrict the free exercise of any religion ; or

(b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable to ; or

(c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions ; or

(d) after the constitution of any religious body except with the consent of the governing authority of that body.

(3) Any such law made in contravention of sub-section (2) of this section shall, to the extent of such contravention, be void.

(4) In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this

> Order, or of any other Order of His Majesty in Council in its application to the Island;
>
> Provided that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of members of the House (including those not present).
>
> Every certificate of the Speaker under this sub-section shall be conclusive for all purposes and shall not be questioned in any court of law.

Now an analysis of the above provision would establish that in substance there was not much of a difference between it and the provisions we have made in that regard in our Constitution. Thus article 29(1) of the Ceylon (Constitution) Order in Council is similar to article 245 of our Constitution which reads as :

'Subject to provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India' supplemented by the residuary power vested in Parliament through articles 246 and 248 read with entry 97 of List I of the Seventh Schedule. Sections (2) and (3) of article 29 spell out the objective of article 13(2) of the Indian Constitution, i.e. in section (2) the prohibitory character of the Parliament's power to make laws in respect of the fundamental rights is spelled out corresponding to the first part of article 13(2), namely, 'The State shall not make any law which takes away or abridges the rights conferred by this Part'; and in section (3) the latter part of article 13(2) is reproduced. Thus the effect of sections (2) and (3) of article 29 in the Constitution is the same as in the case of article 13(2) in our Constitution, namely that although in either Constitutions Parliament has residuary powers to make laws in their legislative capacity, yet they could not make any law to take away fundamental rights and that if any law was still passed, that law to the extent it contravened the fundamental guarantees was void. Then section (4) of article 29 corresponds to article 368 in

as much as the Parliament of Ceylon is prohibited to make laws in contravention of the fundamental rights, in its legislative capacity but that it could exercise its legislative power to amend or repeal not only the fundamental rights guaranteed but also any other provision contained in the Ceylon (Constitution) Order in Council, 1946. All that is required for the Ceylonese Parliament to abridge or take away the fundamental rights guaranteed, a right or privilege that is denied to it as a legislative organ, is to state that it is amending the Constitution or amending section (2) of article 29 and to muster on behalf of such a proposal a two-thirds majority of the total membership of the House of Representatives.

Thus the following points emerge from the fundamental rights vis-a-vis the amendment of the Constitution under article 29 of the Ceylon (Constitution) Order in Council, 1946, namely:

(1) The Parliament of Ceylon possesses the residuary powers to make laws for the Island—A power possessed by the Parliament also in India.

(2) The Parliament of Ceylon cannot make any law in contravention of certain rights guaranteed i.e. abridge or take away any rights—Parliament in India has also the same disability.

(3) The Parliament of Ceylon can, however, amend or repeal any of the provisions contained in the Ceylon (Constitution) Order in Council, 1946 or as a matter of that of any other Order of His Majesty in Council in its application to the Island, which of course includes the power to abridge or take away any rights on which prohibition of making laws exists under section (2) of article 29.—A similar power is vested in the two Houses of Parliament in India under article 368.

(4) The Order of Ceylon made a distinction between 'law' and 'amendment'.

This does not, however, mean that we have borrowed the pattern of the amendment of the Constitution, the fundamental rights etc., from the Constitution of Ceylon—the distinctive features in respect of the provisions in our Constitution in that regard we have already noted elsewhere—but it serves our purpose to dis-

prove the contention that none of the Constitutions contain provisions similar to article 368 article 13(2), and to prove that a distinction between law and amendment exists although the power in respect of the exercise of both of them is vested in the same body and although they are effected through the self-same legislative process. As a matter of fact the attention of the judges concerned in the majority decision in Golaknath's case was drawn to article 29 of the Ceylon (Constitution) order in Council, 1946 and the the majority judgement even refers to a case in which the above article was concerned, though citation was to establish their thesis that an 'amendment' was no different from a 'law', which as we have seen from above is not the case. The Indian Constitution, therefore, did not adopt a totally different system unknown to any other Constitution in the world. It has empowered, by and large, the Parliament to amend the Constitution through the procedure contained in article 368 subject to no limitation whatsoever—inclusive of the right to amend Fundamental Rights.

After having answered the main contentions in Golaknath's case, the questions that now remain to be answered are : 1) What is the root cause that gave rise to the controversy regarding the amendability or otherwise of Part III relating to fundamental rights ; 2) What exactly are the consequences that flow from the Supreme Court's judgement in respect of amendability or otherwise of fundamental rights ? and 3) What is the way out ?

What seems to have been the root cause for giving rise to the controversy whether the part relating to fundamental rights could be amended or not through the authority and the procedure outlined in article 368 is not so much because the very first amendment of the Constitution amended three articles relating to fundamental rights, but that one of the three articles, namely, article 31, relating to the Right to property, that was amended by the Constitution First Amendment was amended twice again through the Constitution Fourth Amendment and the Constitution Seventeenth Amendment and particularly that several Acts of State Legislatures, under cover of amendment of article 31, were validated retrospectively without their having been

examined carefully whether such laws came within the purview of the objective of the amendment or any judicial pronouncements having been made questioning their validity. Perhaps the intensity of the attack against the amendments to articles relating to fundamental rights would have been far less if only care had been taken to include in the Ninth Schedule only such of those Acts that needed protection for purposes of retrospective validation. This is evident, particularly from the separate judgment of Hidayatullah J., wherein after analysing the various amendments to the Constitution pertaining to fundamental rights the learned judge comes to the conclusion that none of the amendments of the articles in Part III other than that dealing with the Right to property was outside the amending process because article 13(2) was in no way breached. He observed :

> 'Our Constitution accepted the theory that Right to property is a fundamental right. In my opinion it was an error to place it in that category...of all the fundamental rights it is the weakest.'
>
> 'Article 31-A has been a protean article. It has changed its face many times. Article 31-A has remained the same till today but the Ninth Schedule has grown. The Constitution (Fourth Amendment) Act 1955, took the number of the Schedule statutes to 20 and the Constitution (Seventeenth Amendment) Act, 1964 to 64 and a so-called explanation which saved the application of the Proviso in Article 31-A was also added. The device (approved by Sankari Prasad's case) was found so attractive that many more Acts were sought to be included but were dropped on second thoughts. Even so, one wonders how the Railway Companies (Emergency Provisions) Act, 1951, the West Bengal Land Development and Planning Act and some others could have been thought of in this connection. By this device which can be extended easily to other sphere, the fundamental rights can be completely emasculated by a two-thirds majority even though they cannot be touched in the ordinary way by an unanimous vote of the same body of men and the State Legislatures may drive a coach and pair through the Fundamental

Rights and the Parliament by two-thirds majority will then put them outside the jurisdiction of the courts.'

'What it (the Constitution) had written on the subject of property rights, appears to have been written on water.'

'I am apprehensive that the erosion of the right to property may be practised against other Fundamental Rights. If a halt is to be called, we must declare the right of Parliament to abridge or take away fundamental rights. Small inroads lead to larger inroads and become as habitual as before our freedom was won. The history of freedom is not only how freedom is achieved but how it is preserved. I am of opinion that an attempt to abridge or take away fundamental rights even through an amendment of the Constitution can be declared void.'

'The power under article 368, whatever it may be, was given to amend the Constitution. Giving protection to statutes to State legislatures which offend the Constitution in its most fundamental can hardly merit the description amendment of the Constitution. In fact in some cases it is not even known whether the statutes in question stand in need of such aid. The intent is to silence the courts and not to amend the Constitution. If these Acts were not included in the Schedule they would have to face the Fundamental Rights and rely on Articles 31 and 31A to save them. By this device protection far in excess of these articles is afforded to them. This in my judgment is not a matter of amendment at all. The power which is given is for the specific purpose of amending the Constitution and not to confer validity on State Acts against the rest of the Constitution.....Ours is the only Constitution in the world which carries a long list of ordinary laws which it protects against itself.'

It is to be said in respect of the above observations that it was no doubt unfortunate that enough thought was not bestowed while including State Laws in the Ninth Schedule in the process of amendment to the fundamental right to property, but that was incidental to the basic question, namely, the amendment of article 31, which as we had already noticed was justified. It is

not proper to read any motives in the inclusion of the several State Acts in the Ninth Schedule, at least with regard to the Parliament of India. The matter was simple and straightforward. The Union Government intending to amend the property clause for ushering in further land reforms wrote to the State Governments to furnish them with a list of land legislations that they had passed, indicating thereby the progress they had made in respect of land reforms, and a list of such laws that needed protection against their being challenged in the courts. The State Governments in order to show that they had made considerable progress in the matter of land reforms and in their enthusiasm to secure judicial immunity to as many legislations as possible, including those that were indirectly or remotely connected with land reforms, supplied the Central Government a long list. The Union Government, consequently included the State Act furnished to them feeling fully assured, since matters relating to land and the reforms of thereof was a State subject, that the State Governments would have furnished them the appropriate ones. But even then the Joint Committees of Parliament, more particularly in the case of those Acts that were sought to be included under the Constitution Seventeenth Amendment Bill, made a thorough scrutiny of the Acts and while they deleted a large number of them, on the ground that they were indirectly or remotely connected with land reforms, added some more, as being more appropriate and which for some reason or the other, the State Governments had not suggested for inclusion. Parliament, therefore, cannot be accused, least of all, that in the inclusion of the State Acts in the Schedule the motive was to silence the Courts.

Nor is the charge that Parliament by resorting to amendment of article 31 has practically watered down the right to property, justified. Actually speaking, that although the general consensus of opinion in the Constituent Assembly was to include the right to property in the part relating to fundamental rights, there were at least three divergent uncompromising views on the question of compensation as well as on the types of property that could be acquired or requisitioned for a public purpose that ultimately the drafting committee had to put in the property clause

as it was found before the Constitution First Amendment was effected.

It was felt even at that time that it would come in the way of land reforms and the implementation of a Directive Principle under article 39(b) and (c). Besides, the question of quantum of compensation to be given for land acquired or requisitioned for the purpose and the enormous amount that had to be given required the phasing of programme relating to land and allied reforms. Thus it came to be that what could have been a single piece of amendment had to be split into three and done in three instalments. The inevitable consquence was the addition of the Ninth Schedule to the Constitution with its small number of protective State Acts. The Ninth Schedule would not have been there if only there had been a consensus of opinion in the Constituent Assembly with regard to the compensation aspect as well as to the types of property that could be acquired or requisitioned for a public purpose nor would the number of Acts increased beyond 13 if in one stroke all that was sought to be done was effected. But that was not to be. Besides, the judiciary is also, to a certain extent to blame for inflating the number of Acts in the Ninth Schedule. The attitude of the judiciary towards land legislations and particularly when some land legislations pursued in all its sincerity for the realisation of social justice under the Directive Principles of State Policy were struck down as strictly not conforming to the literal meaning of the article relating to property rights, it became necessary to ensure constitutional protection and immunity from judicial attack not only to those that had been struck down but also to those that might be without waiting for a judicial verdict either of the High Courts or the Supreme Court. As a matter of fact, if only the judiciary had appreciated the transcendental character—a term that could be more appropriately used, if at all that term is to be used, to signify the Directive Principles rather than to signify fundamental rights—of the Directives vis-a-vis the fundamental rights, article 31 might not have been amended thrice, nay amended at all or stopped after the First amendment and consequently the Ninth Schedule with State Acts in it would not have been there. But perhaps that

was also inevitable in views of the rules of interpretation resorted to by courts in India. Thus it has come to be that Article 31 was amended thrice and the Ninth Schedule packed with so many State Acts and both of them justified.

It has to be borne in mind that the reversal of the earlier decisions that the fundamental rights could be amended by the constituent power vested in Parliament came in the wake of the Constitution (Twentieth Amendment) Act by which retrospective validation was given to the appointment, transfers etc., of certain district judges and as a sequel to the Constitution (Eighteenth) Amendment) Bill seeking to amend article 359 that was introduced on April, 1964 and the announcement made four days later i.e. on 28th April, 1964 that the Government did not propose to proceed and which has since lapsed. The following observations in the majority judgment in Golaknath's case is significant in this regard :

> 'The existence of an all comprehensive amending power cannot prevent revolutions if there is chaos in the country brought about by mis-rule or abuse of power. On the other hand such a restrictive power gives stability to the country and prevents it from passing under a totalitarian regime.'

and again,

> 'There is nothing to choose between destruction by amendment or by revolution, the former is brought about by totalitarian rule, which cannot brook constitutional checks and the other by the discontentment brought about by misrule.'

Now what exactly are the consequences that flow out of the Supreme Court's judgment in Golaknath's case and the attitude of the judiciary towards amendment of the Constitution vis-a-vis fundamental rights. It should be said that the unanimous verdict of the Supreme Court in Sankari Prasad's case that fundamental rights could be amended under article 368, subsequently in Sajjan Singh's case, the previous decision being upheld but only by a majority of 3 : 2 and more, recently in Golaknath's case the previous decisions being reversed by a majority of 6 : 5, lends a certain amount of uncertainty to the whole

question. May be that if the same question comes up before the Supreme Court again, the judgment in Golaknath's case is reversed. Thus it would be that whether or not fundamental rights could be amended under article 368, as it were, would depend on the composition of the Supreme Court and what the personal views of the judges are on the subject. Or to put it the other way, what exactly would be the content of Part III would depend not so much on what a constituent body wants it to be but on what the judiciary wants to be. If that be so it could be asked whether the founding fathers under the scheme of the Constitution had left it to the judiciary to define the ambit of article 368 as also to determine the content of Part III or that they had left the entire question of amendability or otherwise of Part III to a certain amount of vagueness or uncertainty.

A point of more immediate concern and a consequence that flows out of the recent judgment is the impossibility to amend article 31 for which there is likely to be an imperative need not too soon in order to bring other types of property under social control. In other words, the Supreme Court's judgment in Golaknath's case, by preventing any further amendment being made to article 31, has not only made impossible any advancement in the implementation of the Directives in article 39(b) and (c) but also has created a discrimination between landed property and other forms of property, in the sense that while the former could be acquired for a public purpose, the latter could not be.

Yet another consequence of great importance is the set-back that would be caused to economic and social reforms as the same has to be carried out within the ambit of fundamental rights guaranteed under Part III. As a matter of fact there would be great hesitation in undertaking any measure of reform because there would always be the fear that it might be struck down by the courts as contravening the provisions of Part III. Even if there is an imperative or genuine need for the abridgment of fundamental rights, under the new dispensation that connot be effected unless and until a constituent assembly convoked for the purpose has considered and given its consent to the same. All this is not because the power of amendmeat had been used to abridge or

take away the fundamental rights wilfully but because on particular fundamental right, namely, the right to property contained in Part III—a right that was put in the Part in a very general form because of lack of consensus among the members of the Constituent Assembly, a right the very incorporation of which was questioned in Part III in view of the rapidly changing concept of property rights—had been amended thrice for the purpose of carrying out an important objective contained in Part IV of the Constitution. If that be so it may be pertinently and justifiably asked if it was proper for the highest court in the land, more recently, to have put a blanket ban on the amendability of any provision contained in Part III through article 368, a thing recognised earlier by the self-same Court on two specific occasions—on the ground that the power was 'allegedly' improperly used, even if we are to concede that—in respect of one particular right contained in that Part.

The case made out by the majority in Golak Nath's case and more particularly the phraseology in the separate judgment of Justice Hidayatullah in respect of the inalienable character of the fundamental rights in the Indian Constitution is reminiscent of some of the writings in American legal and constitutional journals after the passage of the Eighteenth Amendment to the U.S. Constitution. Writing under the caption, 'Inalienable Rights and the Eighteenth Amendment' Everett V. Abbot wrote in the Columbia Law Review (Vol. 20) as follows :

> 'For the first time in the history of the American Union an amendment to the Constitution has been adopted, or claimed to have been adopted, which attempts to limit the personal liberty of the people. The Amendment was carried through by the votes of a small fraction of the legislative bodies of the country, state and national. Probably less than twenty eight hundred men, acting without the supervision of executive vetoes, acting without instructions from the people, and even at times acting against the expressed wishes of the people, established these regulatory provisions for almost a hundred and ten million people and have thereby established a precendent of the most ominous import for the whole

country. If these twenty-eight hundred men were invested with the powers which are claimed by those who ratified the amendments, there are no limits to the amending power, and a similar body could lawfully duplicate in this country every detail of the Soviet Regime in Russia.

'Once there was a bear who made friends with man. On one occasion he saw a persistent fly crawling over his friend's nose. Out of kindness of his heart he killed the fly with a big stone,—and killed his friend as well. The prohibitionists have played the part of the bear. If they have destroyed the lawful right to take a drink, they have also destroyed the constitution of their country.'

'The protection of inalienable and reserved rights is the inexpungable law of the land. There is no power resident anywhere in the Union which can overturn it.'

'There are limitations to the power of amending the Constitution of the United States Where, then, is the line to be drawn ? Obviously and necessarily at one point, and one point only,—at inalienable rights, at the right, among others, of every man to the peaceful pursuit of his happiness as long as he does not harm his neighbour, and at the right, among others, to be heard in his own behalf whenever the charge is made that his neighbour is harmed by what he is doing. The Eighteenth Amendment overrides both of these rights, and it was never within the power of the people—not even the largest majority—or of their legislative representatives either to propose or to ratify it.' (pp. 184-85 and 195).

Attention should be drawn at this stage that 31 States of the U.S.A. have incorporated with modification on the substance of the Declaration of Independence that all men are created equal and are endowed by the Creator with certain inalienable rights among which are life, liberty and pursuit of happiness ; 27 States have declared and ordained in their State Constitutions that the enumeration therein of certain rights shall not impair or deny others retained by the people ; and 8 States have declared and ordained that the natural and inherent rights of the people

are excepted out of the general powers of government and shall forever remain inviolate.

In a similar strain Justin Du Pratt White, under the caption : 'Is There an Eighteenth Amendment ?' attacked the 18th Amendment. A fitting answer to the above question was given by Lester B. Orefield, a great authority on the federal amending process in the U.S.A. in his article 'The Scope of the Amending Power' in the *Michigan Law Review* (28 *Michigan Law Review* (1930). Orefield contended in that article and on which one can find reasonable basis for agreement, that the Bill of Rights cannot constitute a limitation on the amending power since neither any express nor even any reasonable implied reference to it is contained in Article V. He observed :

> 'To the lay man the Bill of Rights and the Fourteenth Amendment may be thought so fundamental in their nature as to be limitation on the amending power. But, however significant they may be, they were not parts of the original Constitution. They may be repealed just as any other amendment and are no more sacred from legel standpoint than any other part of the Constitution.
>
> 'Even if it had been a part of the original Constitution it would not necessarily limit the amending power. It contains no express, nor even any reasonable implied reference to Article Five. No other clause of the original Constitution has ever been construed to limit the power. In the State decisions no attempts have been made to construe the state Bill of Rights as a limit on the states' power to amend its constitution except in a single Arkansas's case, and this case simply holds that the legislature which was vested with the amending power, could not amend. (Eason V. State II Arkansas 481 (1835) overruling State V. Cox 8 Arkansas 1848 which had held the Bill of Rights subject to the ordinary amending process. The case is explicable by the peculiar wording of the Arkansas constitution and the nature of the amending process). In dictum it declared that the people in convention might do so. An Oregon decision expressly held that the Bill of Rights might be altered.'

Orefield finds support in his above convention, the observation of Jameson in his Constitutional Convention. Jameson saw no reason as to why in the absence of constitutional restriction, the legislature shall not be at liberty to propose amendments to either part of the Constitution, the frame of Government, or the Bill of Rights. (p. 580)

A question of fundamental importance that has arisen out of the Supreme Court judgement in Golaknath's case is in respect of the scope of the Amending Power under article 368 or in other words if there are any express or implied limitations on the Amending Power. In the U. S. A. the scope of the power to amend the constitution under article V of the Constitution of U.S.A. came up for the first time before the Supreme Court in the case of Hollingworth V. Virginia (3 Dall 378 (1798). But in that case the Court went only so far as the procedure was concerned. Since then the Supreme Court never considered the matter until the validity of the Eighteenth Amendment was assailed among other grounds for defects in substance. Attention should be drawn at the outset to the fact that the legislative history of article V in the U.S.A. shows that although comprehensive limitations were proposed at the constitutional convention itself, none but three express limitations, came to be incorporated in article V and of that only one express limitation, namely, with regard to equal suffrage in the Senate, is operative now. However, it has been contended by several writers that there are certain implied limitations, though there has been considerable disagreement as to their underlying bases. Examples of implied limitations to article V pointed out at different points of time by various writers are : the dissolution of the Federal Union, abolition of the State Governments or lodging of all powers in Congress so that it would resemble British Parliament (A.W. Machen. Is the Fifteenth Amendment void ?) ; repealing the Bill of Rights (Henry W. Jessup—The Bill of Rights and Its Destruction by Alleged Due Process of Law) ; repealing the Ninth and Tenth Amendments (Curtis-Constitutional History) ; destroying alleged inalienable rights of personal liberty or nationalising women (Abbot. Inalienable Rights and the Eighteenth Amendment) ; departing from the scheme and purpose of the original

constitution (Skinner—Intrinsic Limitations on the Power of Constitutional Amendment); abolition of republican form of Government, office of President, Supreme Court, changing of Article V (Appellant's brief in National Prohibition cases); abolition of the Senate or the House of Representatives, abolition of slavery (Congressional Globe, 38th Congress 1st Session 2992-93); women suffrage in the States (Appellant's brief in Leser V. Garnett); deprivation of power of States to tax (Marbury—The Limitation Upon the Amending power); election of President and the Supreme Court Judges by the people, re-enactment of laws by Congress after Supreme Court decision holding them void (Child—Revolutionary Amendment to the Constitution); national referendum on acts of Congress or on treaties, destruction of Senate's equal legislative power, make treaties (Brown—Perpetual Covenant of the Constitution); encroachment on state's police power (Holding-Perils to Be Apprehended from Amending the Constitution); and national income tax (The Sixteenth Amendment to the Constitution).

That while disputing the contention of some of the above writers has been the subject-matter of some writers, as for instance, William C. Coleman's article entitled 'The Fifteenth Amendment' was directed as a reply to Machen's contention in his 'Is the Fifteenth Amendment Void ?,; William L. Frierson's article 'Amending the Constitution of the United States' was in answer to William L, Marbury's article 'The Limitations Upon the Amending Power'; and D. O. McGovene Y's article 'Is the Fifteenth Amendment Void Because of its Contents ?' was in answer to Everett V. Abbot's article 'Inalienable Rights and the Eighteenth Amendment', Orefield's article entitled' 'Scope of the Federal Amending Power' was directed to answering all such contentions generally and to establishing beyond doubt that there could be no implied limitations to the amending power. The points made out by Orefield to show that there could be no implied limitations to the amending power were as follows :

(1) Most obvious and at the same time the most powerful argument against the existence of any implied limitation is the presence within the amending clause itself of the explicit limita-

tions which are already there in Article V. The existence of the limitation shows thought having been given by the framers—slave trade, direct taxes etc.,—but only three limitations were plainly set forth in the same clause of the Constitution as granted the amending power.

(2) The makers of the Constitution seemingly intended to provide for a broad power of amendment. If limitation of one kind were adopted, limitations of another kind would also be demanded. Certainly no power conferred on the constitution is ultimately of more importance than the amending power. If the fathers were careful in the drafting of any clause of the Constitution, it would seem that certainly nothing would be left to implication as to the bounds of the amending power. Two observations of the Supreme Court are supported in the above contention :

1. 'The rejection of most of the proposed limitations on this power and the inclusion of but one permanent disability or restriction is strong evidence that, save as to the included exception, it was intended that the legislative Departments of the Governments of both the U.S. and the several states, acting in a special capacity for such purposes, should be practically unlimited in their power to propose and adopt amendment.' (Feigenspan V. Bodine 264 Fed. 186 (1920)

2. It is a rule of construction, acknowledged by all, that the exceptions from a power stark its extent ; for it would be absurd, as well as useless, to except from a grant of power, that which was not granted.'

(Marshall C. J. Gibbons V. Ogden 9 Wheat 191 (1824))

The framers of the Constitution regarded their work as far from perfect and consequently anticipated a wide use of the power to amend. He observed :

> 'A simple compliance with Article V is enough and no limitations are read in from other clauses of the federal constitution. The proponents of implied limitations forget that Article V is as much a part of the Constitution as any other part of it. Admittedly limitation on

the scope of an amendment are more fundamental than those on the procedure. Since limitation gathered from other clauses and from the general character and spirit of the Constitution have not been generally implied as to procedure, it would seem illogical and a serious matter to imply limitations as to substance. Article V, the sole fountain-head of the power to amend, is silent and appears to confer the power in broad and sweeping terms. Suggested limitations must be critically viewed, and compared with its provisions, and not the provisions of the remainder of the Constitution.

(3) It would be dangerous, exceedingly, to lay down any limitation beyond those existing on the power to amend. The critics of an unlimited power to amend have too often neglected to give due consideration to the fact that alteration of the federal constitution is not by a simple majority or by a somewhat preponderant majority, but by a three-fourths majority of all the States. Undoubtedly where a simple majority is required, it is not especially a serious matter for the courts to supervise closely the amending process both as a procedure and as to substance. But when so large a majority as three-fourths has finally expressed its will in the highest possible form outside of revolution, it becomes perilous for the judiciary to intervene.

'An amendment which has the deliberate judgment of two-thirds of Congress and of three-fourths of the State can scarcely be deemed unsuited to the prosperity or security of the people. It must combine as much wisdom and experience in its favour as ordinarily can belong to the management of any human affairs.' (2 Story—Commentaries on the Constitution of the U.S.A. Section 1830).

'I grant that if three-fourths should make the Chief Magistrate hereditary it would be a gross abuse of power. Against this and other abuses, we have provided, by requiring so large a majority of three-fourths and this is the only safeguard we have thought necessary. The right in the one-fourth to correct abuse is revolutionary, not sovereign' (Arguments of Blanding in State V. Hill 2 Hill 172 (1834))

(4) It is of course the business of the judiciary to enforce the law. But it is, and probably always has been, an unformulated ground of action in the judicial mind never so to act as to come squarely in conflict with the executive and legislature and a large group of people. The Court is bound by no express limitation except the equal suffrage clause. If the judiciary in the absence of such limitations goes ahead and deliberately lays them down, it would seem that they are positively courting disaster. In refusing to lay down restrictions, the court is not affirmatively violating any express clause of the Constitution. In the absence of any other express limitations and in view of the reasonable conclusion that there are no other limitations, it seems that the court is merely doing its plain duty in refusing to discover any new restrictions.

> 'When the text of a constitutional provision is not ambiguous, the courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument (Lake Connby V. Rollins 130 U.S. 662)
>
> 'Possible or even probable meanings, when one is plainly declared in the instrument itself, the courts are not at liberty to search for elsewhere.' (Cooley—Constitutional Limitations, 7th Edition, pp. 90-91)

The Supreme Court has repeatedly adoped the above view (Gibbon V. Ogden 9 Wheat 1 ; Tennessee V. Whitworth 117 U.S. 139 ; Hodges V. U.S. 1 etc.)

(5) The Preamble speaks of the Constitution as being ordained and established.....in order to form a more perfect Union. Yet it is remarkable that there is no exception set out in Article V against amendments which would abolish or greatly diminish the powers of the states. The sole exception is 'equal suffrage'. This clause merely preserves equality of the states in the Senate, and not the existence of the states themselves. If the preservation of the states were so tremendous a desideratum it would seem from a logical if not historical point of view, that a proviso would have been inserted expressly guaranteeing their continued existence. As a matter of fact an exception intended effectually to preserve the existence of the states was

offered and rejected at the constitutional convention. To assert that the amending power extends to the destruction of the states is scarcely necessary to meet the arguments generally set forth in favour of implied limitations. The question is academic. The proponents of limitations have been prone to assert that every amendment which diminishes the power of the state constitutes an annihilation of the states.

(6) The amending process is not the regular legislative process of the federal government. Congress in proposing an amendment is not legislative. Judge Jameson observed :

> 'When the legislative action consists simply in affirming by a resolution intended only on a step preparatory to further and other action of that or of some other body, the expediency of amending the Constitution, or in merely proposing such amendments as it deems desirable, such action cannot properly be called legislative.' (Constitutional Conventions, p. 505).

(7) An amendment need not be germane. If an amendment is conductive to the general welfare it is then germane. Realising the imperfections of their work, it is not reasonable to surmise that they (the framers) intended that future generations should not make such alterations as they thought best. To-day at a time when absolutes are discredited it must not be too readily assumed that there are fundamental purposes in the Constitution which shackle the amending power and which take precedence over the general welfare and needs of the people of to-day and of the future.

> 'The framers of the Constitution could not foresee the form or character of amendments which might become necessary in the future and wisely left all such questions in the hands of those who might be charged with official duty when the necessity for the change and the character of the change to be made became apparent (Ex-Parte Dillon 262 Fed. 363 (1920).

> 'No limitation of the amending power can be found in this notion of necessity for germaneness. Who shall say it is

germane ?' (McGoveey—Is the 18th Amendment Void Because of its Contents ?).

(8) The proponents of implied limitations resort to the method of reductio ad absurdum in pointing out the abuses which might occur if there were no limitations on the power to amend. The reply would be in the first place that the fact that a power may be abused does not necessarily militate against the existence of the power. The Supreme Court has declared over and over again that the possibility of abuse is not to be used as a test of the existence or extent of a power. In the second place the amending power is a power of an altogether different kind from the ordinary governmental power. If abuse occurs, it occurs at the hands of a special organisation of the nation and of the states representing an extraordinary majority of the people, or that for all practical purposes it may be said to be the people, or at least the highest agent of the people, and one exercising sovereign powers. It seems anomalous to speak of abuse of such power. Unless the view be adopted that the people of United States are not sovereign and that they are not to be trusted to alter their fundamental institutions but are to be carefully safe-guarded by a small group of men who know or think they Know what is best for the people, it seems necessary to conclude that they have a full power to amend free from any implicit limits no matter what abuses may result. No abusive assaults on our constitutional system have as yet been made by amendment. However, inexpedient negro suffrage and prohibition may be, it cannot be seriously pretended that they have weakened or seriouly altered the general tenor of the constitution. It may be that serious abuses may occur in the future ; it can scarcely be said that have occurred upto this time. It may be objected that the possibilities of abuses in the future should be provided for. In reply, it may be said that the nation has not been threatened by the absence of such implied limitations so far and that there have been no wanton abuses. The generation of to-day cannot know the needs of the the generation of tomorrow. Any restriction which might be laid down now might easily turn out to be futile, which such as might prove beneficial may not be known or suggested by the leaders of the present era. It seems best in this matter to permit each

generation to take care of itself.

(9) Resort is sometimes had to the equality of suffrage in the Senate clause as an express limitation, or as a basis for deducing implied limitations. It, therefore, seems appropriate to point out the true character of the proviso. First of all, it should be noted that it is not an absolute limitation on the power to amend. If a state consents, it may be deprived of its equal representation in the Senate. Thus if every State ratified an amendment, any given State or any number of States could be deprived of their equality. The same result would be reached if the state or states affected together with 35 other states adopted such an amendment. In the second place it has been suggested that even this express limitation might be either deliberately disregarded, or indirectly disregarded by first repealing the clause and then depriving a state of its equal representation. This view is expressed by writers like—Burgess, Political Science and Comprative Constitutional Law p. 154, Von Holst—Constitutional Law of the United States p. 51 Note ; W. W. Willoughby—Constitutional Law of the United States, Vol 1, p. 598 and W. B. Munroe—Government of the United States p. 77. Holst for instance suggested that 'this limitation (the equal representation in the Senate) may be avaded by adopting a constitutional amendment eliminating this limitation upon the amending power, and thus opening the way to subsequent amendments providing for unequal representation of the states in the Senate'. And Munroe observed :

> 'Therefore, it is quite likely that if conditions ever make it imperative to amend the constitution on either of the two points at issue, a way will be found to do it. Indeed, one way is obious : to remove the exception by a preliminary amendment and thus clear the way for further action... If the country ever decides to put an end to the undue influence of the small states in Congress, caused by their overrepresentation in the Senate, it can achieve this end in a roundabout way. An amendment could provide that when the House and Senate disagree they must settle the disagreement not by conference and separate concurrence as at present but by holding a joint session.'

However, Orefield feels that it would not be desirable to overlook this explicit and express limitation in the article. He observes :

> 'The theortical basis of this view is that what cannot be done directly can be done indirectly. The only legal way to drop the proviso would be by a unanimous ratification of an amendment to that effect by the States...It is better to hold that it cannot be altered The Court would declare it unconstitutional.'

To the above arguments of Orefield as to the illimitable character of the amending powes William C. Coleman adds the following observation, although it is with reference to article V of the U.S. Constitution :

> 'Obviously a government based upon a written constitution cannot progress satisfactorily unless that instrument itself is also susceptible of enlargement. The amending power of our federal constitution is too comprehensive, too great an attribute of sovereignty vested in the majority by the very compact under which the States and the people of the States agreed to come into the Union to be capable of adequate definition merely by comparison with the ordinary limitations upon the power to amend a State Constitution, or articles of incorporation or the much more technical limitations on the various forms of pleadings.
>
> The amendment clause in the Constitution is the great safety-valve, so to speak, whereby these people are assured always of the power to make durable and effective that more perfect Union of which the Preamble speaks. If all this be true, then it is submitted that there is, strictly speaking no inherent limitations upon the amending power ; that this power knows no inherent bounds other than those of the very will of the Nation itself.
>
> Our forefathers asked themselves : 'How can we best avoid to overthrow of this new government, such as the overthrow of the old government ; how can we best make this Union perpetual ? For the Articles of Confederation had declared that the Government under it should be perpetual, in fact,

the very title of that instrument was 'Articles of Confederation and Perpetual Union' and yet that government lasted only seven years Our forefathers answered these questions to a large extent by inserting in the Constitution the amending clause...If the framers had felt it necessary to curtail the will of the majority to a great extent, why were not more express limitations inserted ?

What language could be more expilcit to show that there are no inherent limitations in the amending power, and that the framers of our Constitution intended that there should be none ?...Nowhere, throughout the entire debate upon this question do we find even the slightest suggestion that there exists an implied prohibition of, or protection against, an indefinite extension of the amending power,—a fact which is in such sharp contrast with the debates on the other powers to be exercised under the Constitution.' (pages 424-426 and 429—The Fifteenth Amendment (1910) 10 Columbia Law Review, 416)

From the above summary of the scope of the amending power the following points emerge :

(1) That there could be no implied limitations to the amending power, nor could any limitations be read outside the amending clause. Limitations, if any, can at best be read only in the amending clause and that too if only expressly stated.

(2) That even with regard to those expressly stated in the amendment clause itself, at least in the United States, doubts have been raised that if and when an occasion demanded the limitation can remain. From the standpoint of constitutional law, the amending power is not competent to deprive a state of its equal representation in the Senate without its consent, but from the standpoint of political theory, no one generation can so firmly fix the fundamental law of the land as absolutely to bind all future generations.

(3) That the objective of the amending clause would be obviated if any limitation is imposed, the objective being growth and expansion peacefully in the future which cannot possibly be foreseen.

(4) That the amending process is not the regular legislative process and that although a legislature proposes an amendment, in so proposing it is not functioning in a legislative capacity.

(5) That the possibility of abuse is not to be used as a test of the existence or extent of a power and least of all the amending power.

(6) That no limitation should be imposed on the amending power on the ground of germaneness.

(7) That although it is the business of the courts to enforce the law, it is not desirable for it to look for possible or even probable meanings, when one is plainly declared in the instrument itself, particularly in respect of the amending clause.

Thus it could be said that there are no implied limitations to the amending power in any constitutional document which contains a provision in respect of its amendment and inasmuch as article 368 of the Constitution contains no express limitation as in the case of Article V of the U.S. Constitution, the amending power under article 368 is wider than that of the amending power under article V. Further while it is doubtful whether it would be a valid place of amendment to totally alter the amending clause of the U.S. constitution—particularly in view of the existence of the express limitation contained in it and in view of the absence of an express provision in the article itself for its alteration, article 368 of the Constitution could be altered by the amending power because of an express provision for its alteration contained in the article itself. That being so it is beyond doubt that the founding fathers of our constitution have intended to place no limitation on the amending power whatsoever. If Lord Bryce could speak of Article V of the American Constitution, despite the express limitations it contains in the following words :

> 'But looking at the Constitution simply as a legal document one finds nothing in it to prevent the adoption of an amendment providing a method for dissolving the existing Federal tie, whereupon such method would be applied so as to form new unions, or permit such State to become an absolutely sovereign and independent commonwealth. The power of the people of the United States appears competent to effect this,

> should it ever be desired, in a perfectly legal way, just as the British Parliament is legally competent to re-divide Great Britain into the sixteen or seventeen independent kingdoms which existed within the island in the eighth century."[1]

one could justifiably say that under the amending power of article 368 there is no provision in the Constitution that cannot be altered if and when such a contingency arises.

However, as the Supreme Court in the Golaknath's case has said that the fundamental rights contained in Part III cannot be amended through article 368 it has to be accepted at least till such time it revises its own decision on the subject. But then, having said fundamental rights could not be abridged or taken away by an amendment through article 368, the Supreme Court in Golaknath's case, has not expressed a final opinion, although it has indicated in a general way, with regard to the authority that could amend fundamental rights and the procedure that it would adopt. This has given rise to a spate of suggestions with regard to the course of action, the changes in the Constitution that have to be made so as to make possible the amendment of Part III relating to fundamental rights. While the bulk of the suggestions are made on the assumption that the power to amend Part III is contained in article 368, a suggestion is made on the assumption that the power to amend Part III is not contained in Article 368. However these proposals are apart from the need for a final and authoritative clarification on the debatable issue as to whether fundamental rights could at all be amended either through the power conferred under article 368 or through the residuary power vested in Parliament. A point of view is also put forth in respect of the entire question of amendment, namely, that it is not proper to look for an 'all comprehensive' power of amendment under the scheme of the Indian Constitution since every article of the Constitution contained in it built-in elements to show whether it is amenable to amendment or not. Thus whenever it is desired to amend any particular provision of the Constitution it is required to be seen (a) whether the particular article sought to be amended

[1] The American Commonwealth, Vol, I, p. 483.

is amendable ; (b) whether there is a constitutional necessity for the proposed amendment ; and (c) whether the proposed amendment is proper in the conspectus of the Constitution.

The various suggestions put forward on the assumption that article 368 contains the all-comprehensive power to amend the various provisions of the Constitution including the power to amend Part III are :

(1) (a) **Amendment of article 13** : By incorporating an explanation in article 13(3) to the effect that the term 'law' does not include constitutional amendment. Or (b) by making a clarification in article 13(2) that a law which gives effect to a Directive Principle shall not be deemed to take away or abridge any fundamental rights under it. Or (c) By amending article 13(2) so as to substitute for the words "any law which takes away" the words "any law except law of this Constitution which takes away" (Shri K. R. Ganesh's Bill pending before the Lok Sabha).

(2) **Amendment of article 368** : (a) Making it clear that the article also lays down the power of amendment and that Parliament shall have power to amend even Part III of the Constitution, or

(b) By the addition of a clause to the effect that any provision of the Constitution may be amended in accordance with the procedure contained in article 368 and the substitution of the words 'an amendment of any such provision' for 'An amendment of the Constitution' in the substantive part of article 368 (Shri Nath Pai's Bill).

(c) To add in the proviso, Part III, so as to enable amendment of Part III only through ratification by requisite number of States (Shri Yashpal Singh's Bill pending before the Lok Sabha) ; or

(d) To add two new articles after article 368 for the purpose of (i) treating the two Houses of Parliament as a Constituent Assembly for purposes of amending the Constitution ; and (ii) enabling Parliament to amend any article of the Constitution notwithstanding anything contained in any Part of the

Constitution (Shri K.R. Ganesh's Bill pending before the Lok Sabha) ; or (iii) A proviso to be added to article as follows :

'Provided that a Bill which seeks to amend the Constitution so as to take away or abridge any fundamental right shall, after it has been passed by the two Houses of Parliament with the requisite majority, be sumitted to the people entitled to vote for ratification through a referendum and the Constitution shall stand amended in accordance with the terms of the Bill only after the Bill has been ratified by a majority of the people participating in the referendum (Shri P. Parameshwara Rao in his paper submitted to the Convention on fundamental rights held under the auspices of the Institute of Constitutional and Parliamentary Studies).

(3) **Amendment of articles 13 and 368** : Article 368 to be amended so as to establish clearly that power to amend is located therein and for amending any provision of the Constitution and Article 13 to be amended so as to show that the expression 'law' does not include 'constitutional law' or that the rights contained in Part III can only be abridged or taken away only by an amendment of the Constitution under article 368.

(4) **Amendment of article 19** : By the addition of two articles : *i.e.*

(a) to enable Parliament to make laws relating to the economic system in such manner as the economic system does not result in the concentration of wealth and means of production to the common detriment ; and

(b) to enable Parliament to make laws for achieving social and economic justice for the citizens, saving it from the operation of articles 14 and 19.

(5) **Resort to article 137** : By a judicial review of the Supreme Court's own judgement in Golaknath's case by taking an appropriate case before it. (Shri B.K.P. Sinha's suggestion made during the Rajya Sabha debate on the reference of Shri Nath Pai's Bill to the Joint Committee of the two Houses.)

(6) **Resort to article 359** : The President to make a declaration under article 359, as there is now an emergency, taking away

the right to approach the Supreme Court for enforcement of any of the articles in Part III and giving it a retrospective effect, so that immediately this judgement would become ineffective and the Constitution could then be amended to make law under article 13(2) to exclude constitutional law and to take away the power from the Supreme Court to declare constitutional amendments ultra vires. (Dr. K.V. Rao's suggestion in a paper presented to the Institute of Constitutional and Parliamentry Studies's Convention on Fundamental Rights).

(7) **Suggestion made on the assumption that the power to amend Part III is located outside article 368** : By convening a Constituent Assembly indirectly. The following steps to be adopted in this regard :

(1) A referendum to be addressed to all voters of India to reply to the question ; 'Do you want the Fundamental Rights (the relevant right to be stated) assured to you in Part III to be subject to constitutional amendment ?

(2) If to this question two-thirds of the electorate give an affirmative answer, Parliament to convene a Second Constituent Assembly under the residuary power in item 97—List I of the Seventh Schedule consisting of all members of the existing Parliament (Lok Sabha and Rajya Sabha) and 10 members each of the legislatures of all States, i.e. 10 only if there is only one House and 20 if there are two Houses) in proportion to the strength of political parties functioning in such legislatures at the relevant time.

(3) The Second Constituent Assembly to work out the new article of amendment to be incorporated into the Constitution. The new article is to be cast as follows :

Article 368A. Ascertainment of the People's views by means of a referendum:

Where it is necessary to—

(a) amend any of the rights postulated in Part III of the Constitution

(b) or to ascertain the wishes of the people of India in a matter of special constitutional importance, not solved by any of

the existing constitutional provisions, a referendum may be caused to be effected by law to ascertain the clear wishes of the people.

(8) Suggestion to make the issue clear : Reference to the Supreme Court under article 143. The President to make a specific reference to the Supreme Court under article 143 for a final and authoritative clarification of the debatable issue as to whether Parliament can amend the Fundamental Rights or not. (Shri N.C. Chatterjee in his letter to the President of India and again while speaking on Shri Nath Pai's Bill in the Lok Sabha).

(9) Suggestions to ensure and establish Parliamentary supremacy in the matter of amendments to Constitution of any provision contained in it and avoid consequently any conflict between the Parliament and the Supreme Court in that matter : (a) A constitutional amendment may be passed giving power to the Parliament to set aside any judgement of any Court by a special majority of two-thirds of the members of the Parliament.

(b) Making a rule under article 145 or a law by constitutional amendment to the effect that while a majority of one judge would do to pronounce a judgement at the first instance, a two-thirds majority of the judges may be insisted upon for reversing or revising a previous judgement.

(c) The Supreme Court should be requested to deal with all the points relevant to a particular case or arising either directly or indirectly and give a final or comprehensive opinion whether particularly raised or not, or pressed or not by the parties.

(d) Every Bill or at least every proposed constitutional amendment may be sent to the Supreme Court for advisory opinion by the President under article 143.

(e) Reform of the judiciary so as to recruit judges with comprehensive view of the world, understanding of social changes and having an advanced progressive social conscience. (Suggestions (a) to (d) made by Dr. K.V. Rao in his paper for the I.C.& P.S. ; and (e) made by Shri B.K.P. Sinha during the Rajya Sabha debate on reference of Shri Nath Pai's Bill to the Joint Committee of the two Houses.)

Now before we examine if all, any or one or more proposals

mentioned above would help clarify the intention of the framers of the Constitution that Part III is amendable, it should be said at the outset that so long as the Supreme Court's judgement on Golaknath's case holds the field, it is doubtful if recourse could be had to any specific proposal with a view to providing in the body of the Constitution a means by which fundamental rights could be amended. While the Supreme Court had categorically pronounced its verdict that Part III cannot be amended under article 368, it has not positively suggested a method of amending Part III apart from throwing a hint. It is, therefore, required that a clear verdict is got in this regard. This could be done either by causing a reference to be made to the Supreme Court under article 143, not whether Parliament has the power to amend Part III or not, as suggested by Shri N.C. Chatterjee, but a more general question as to whether fundamental rights could at all be amended and if so by what specific method or provision in the Constitution or alternatively by taking once again a case analogous to Golaknath's case before the Supreme Court and enable it to give a clearer verdict or review of its own previous decision. In either case one cannot he sure that the verdict is likely to be that the power to amend Part III could not be located in article 368 itself. Once that is got, to safeguard against any reversal of this position in the future, opportunity should be taken to make clear in the Constitutional document itself—a thing that is hardly necessary but as the Supreme Court had expressed its doubts—that the fundamental rights contained in Part III could be amended under article 368 of the Constitution. This clarification should be made in article 368 itself by the addition of the words 'including provisions contained in Part III' after the words 'An amendment of this Constitution' in the substantive part of the article. That should be sufficient. But as a matter of abundant caution article 13(3) should also be amended so as to exclude a constitutional amendment Act coming within the definition of 'law' and this could be done by adding at the end of article 13(3) (a) before ';' a comma and the words 'but excludes an amendment of the Constitution'. The two changes would clarify the intention of the framers of the Constitution, namely : (a) that the power to amend the Constitution is contained in article 368 ; (b) that the power is

a constituent power although vested in the Parliament of India but functioning in its constituent capacity ; (c) that any provision in the Constitution could be amended by the procedure contained in it, that is to say, not only provisions contained in Part III but also those provisions that could be changed by Parliament by a bare majority and those that could be altered by Parliament 'but shall not be deemed as an amendment of the Constitution for purposes of article 368' ; and (d) that an amendment of the Constitution would not be covered within the meaning of 'law' for purposes of Part III.

No other changes else than the ones mentioned above need be made nor is it desirable or proper. The proposal to subject amendment of Part III to a referendum proposal is hardly necessary. The Constituent Assembly was not unaware of referendum on Constitutional proposals but did not find it desirable for acceptance in our Constitution. Similarly it would be inappropriate to include Part III in the proviso as under the scheme of the Indian Constitution a certain principle had been adopted for including items in the proviso and Part III does not conform to that principle. Then, although a clarification in any article or anywhere in Part III to the effect that a law which gave effect to a Directive Principle would not be deemed to take away or abridge any fundamental right under it might be found necessary for the implementation of the Directive Principles, particularly in view of the attitude of the judiciary towards the Directive Principles vis-a-vis the fundamental rights, such a provision is hardly necessary if the changes suggested in the preceding para were accepted. It should be recalled in this connection that Shri B.N. Rau suggested a similar amendment be made in Part IV, to the effect that an enactment or State action under the 'Directives' may not be invalidated merely by reason of its contravening any Fundamental Right (See the author's book for the precise provision suggested—Directive Principles in the Indian Constitution) but the Drafting Committee did not consider it necessary. Then, as regards the reference to be made to the Supreme Court under article 143 as to whether Parliament could amend the fundamental rights or not, the objection would be the question itself since Parliament is the legislative organ of the Union Government and the framers of the Constitu-

tion have not conferred the power to amend the Constitution on the legislative organ, more particularly under article 368. That being so the Supreme Court might say that the Parliament has no power to amend Part III and as such that would not serve our purpose. Next, with regard to the suggestions of Dr. K.V. Rao that recourse may be had to article 359, it should be said that such a procedure would amount to making an improper use of the emergency provision and the Constitution would not permit that. Then as regards the suggestions of giving power to the Parliament to set aside any judgment of any Court by a special majority, it should be pointed out that that would have a bad effect on the judiciary and the dispensation of justice as such. Further in respect of suggestions made in respect of the judiciary it would be better to leave them to conventions rather than making specific provisions in that regard.

After having considered the question of number, the frequency of amendments in the Indian Constitution and whether the Fundamental Rights part could be amended by the authority and through the procedure contained in article 368, it requires that an assessment be made of the amendments to the Constitution effected till date. Of the twenty-one amendments made to the Constitution, barring the First, Seventh and the Fifteenth amendments, each one of the other amendments had a particular objective and amended a single article of the Constitution mostly or two or more related articles which had to be amended consequent on the amendment of the primary article for the desired objective. However, in the Fourth amendment to the Constitution whose theme was the amendment to the Right to Property articles and the related Ninth Schedule, the amendment to article 305 which was consequential to the amendment to article 19(6) and which should have rightly formed part of the Constitution (First Amendment) was added. Well, the consequential amendment to article 305 having been overlooked, necessary though it was when article 19(6) was amended through the Constitution (First Amendment), and at the same time, being a consequential amendment, did not warrant a separate amending Bill, it had to be tagged along with some other amendment Bill. Since the imperative necessity for the consequential change came at a time when the Constitution was being amended

for the fourth time, the consequential amendment to article 305, although it had a different theme was included in the Constitution (Fourth Amendment). Similarly under the broader theme of amendments in respect of Union Territories, to the primary objective of the creation of local legislatures or Council of Ministers as well as the increasing in the number of representatives in the Union Parliament for the Union territories, the amendments to the First Schedule and article 240 for the inclusion of Pondicherry as a Union Territory and the amendment to the Fourth Schedule consequent on representation being given to Pondicherry, were added under the Constitution (Fourteenth Amendment) Bill. That although the amendment to the First Schedule for the purpose of adding Pondicherry to the Schedule and the consequential amendment to article 240 could have obtained a separate amendment Bill as was done in the case of Dadra and Nagar Haveli or in the case of Goa, Daman and Diu, yet for the sake of convenience as also because, to reiterate, Pondicherry was to have the status of a Union Territory, other articles pertaining to the Union Territories that required to be amended and in which Pondicherry itself was concerned, were clubbed together. It has to be pointed out in respect of the Constitution (Fourteenth Amendment) Bill, while the theme of the articles amended by it was Union Territories, it was a sort of composite amendment inasmuch as certain provisions contained in it required ratification by the State Legislatures while others did not.

Now as regards amendment Bills, First, Seventh and the Fifteenth, they were composite in character seeking to amend a number of articles pertaining to various subjects. All the same even in those cases, a particular objective or theme was uppermost in bringing forward the amending measure although other equally important subjects were added on to it. Thus for example, the primary objective of the Constitution (First Amendment) was to amend articles relating to Fundamental Rights ; of the Constitution (Seventh Amendment), the amendment of articles consequent on Reorganisation of States ; and of the Constitution (Fifteenth Amendment) the amendment of articles relating to the judiciary. The reason for the inclusion of a number of articles relating to dissimilar subjects in the Constitution (First Amendment) was to

avoid the alternative of making a number of amending proposals if a single subject was to be the theme of a proposal and thereby not only save parliamentary time but also obviate the consequent criticism that the Constitution was being tampered with too often. However, inter alia, a forceful criticism of the Constitution (First Amendment) was that it sought to amend a number of provisions. Subsequently, at it were, the three amendments that followed had a single theme each. This piecemeal amendment was not relished by the members of Parliament and a section of the opposition members even demanded the appointment of a committee to examine the entire constitution with a view to suggesting the various articles that need be amended so that all such amendments could be carried out by a single proposal. Taking a cue from the above observation, the Government were hustled into introducing two composite Constitution amendment Bills ou 21st November, 1955 after hurriedly examining the various provisions of the Constitution. A week later, however, the Government were obliged to withdraw the Constitution (Fifth Amendment) Bill in its composite form to expedite the passage of a single provision in it, in view of the reorganisation of States. Then when several provisions of the Constitution required modification consequent on the reorganisation of States, it was felt desirable to introduce a comprehensive Bill containing not only the articles that needed amendment for the implementation of the reorganisation of States but also nine out of ten provisions contained in the Constitution (Sixth Amendment) Bill introduced on 21st November, 1955, some of them in the modified form. This necessitated the withdrawal of the Constitution (Sixth Amendment) Bill. Thus it was that the Constitution (Seventh Amendment) whose primary objective was to amend those articles in respect of reorganisation of States came to include other articles as well. The Constitution (Seventh Amendment) was unlike the Constitution (First Amendment) Bill, composite in another sense inasmuch as some of the provisions contained in it required ratification by the legislatures of States. Now, after the withdrawal of the Constitution (Fifth Amendment) on 28th November, 1955, the Government gave a second thought to the provisions they had included in it and after a lapse of over seven years included four of the provisions contained in it in a

slightly modified form in the Constitution (Fifteenth Amendment). The inclusion of the amendment proposals of four articles relating to four different subjects that originally formed part of the Constitution (Fifth Amendment) that was withdrawn, in the Constitution (Fifteenth Amendment) whose theme was the amendment of certain provisions relating to the judiciary hardly finds any justification particularly when the amendment proposals relating to the judiciary, the theme of the Constitution (Fifteenth Amendment), require ratification by the legislatures of the States, while the others did not. They were perhaps added for the same reason that led to the inclusion of various dissimilar proposals in the Constitution (First Amendment). But then, the Constitution (First Amendment) composite as it was and containing various dissimilar proposals did not contain any proposal in it that required ratification by State legislatures. Thus the four articles that were included in the Constitution (Fifteenth Amendment) ought to have been put together in a separate amendment Bill and if such a thing was not desired the proposals could have been tagged on to any other Constitution Amendment Bill that did not require ratification by State legislatures.

In the amendments carried out till date one cannot read partisan motives. Any such attempt to amend the Constitution was either wisely withdrawn after reconsideration or in compliance with the desire of the House of Parliament. There has not been a single piece of amendment which had the slightest tinge of partisan character and which the House had disapproved of was put on the statute book. As a matter of fact, the Parliament, functioning as it did as a Constituent Assembly for purposes of amendments to the Constitution, decided what amendments should be adopted and what not and what further changes were required in the amendment proposals made so that the proposal might have its approval. The fact that the Parliament was able to assert its superiority in the matter of amendment to the Constitution is evident from the fact that by its opposition it not only forced the Government to defer consideration of the Constitution (Eighteenth Amendment) Bill that sought to amend article 359 but also outvoted the amendment to article 333 that was included in the Constitution (Eighth Amendment) Bill. It also compelled the

Government to make suitable changes in the Constitution (Fifth Amendment) before acceptance. Parliament's superior authority was not only confined to opposition and defeat of amendment proposals but also to the inclusion of additional proposals as could be seen from the Constitution (Seventh Amendment). The Joint Committee of the two Houses to which the Constitution (Seventh Amendment) Bill was referred to, inserted additional articles apart from transforming a few that were contained in the original proposal. The Government was also aware of the fact that resort to an amendment to the Constitution should not be had unless it was in the general public interest and a cause having arisen the only course open was to amend the Constitution. The vicissitudes of the Constitution (Fifth Amendment) Bill, namely, the circumstances under which it came to be introduced as a composite amendment Bill on 21st November, 1955 ; the way the entire Bill was withdrawn a week later to enable consideration of only one of the several provisions contained in it ; and how after a thorough reconsideration and after a lapse of over seven years it was thought proper to reintroduce only four out of the other remaining provisions of the withdrawn Fifth Amendment Bill, showed clearly that the Government in making amendments to the Constitution did not want to take advantage of the party majority it had in Parliament.

After having dealt with the question of the nature of amendments carried out in the Indian Constitution and other matters pertaining to it, it now requires to be looked into if in carrying out the amendments whether the procedure prescribed for the purpose was adhered to or not. In other words, an assessment has to be made in respect of the procedure adopted for carrying out the various amendments. The most important aspect of the procedure regarding constitutional amendment relates to the 'special double majority' vote requirement in the two Houses of Parliament, namely, majority of the total membership of the House as well as a majority of not less than two-thirds of the members of the House present and voting. This meant in actual figures that an amendment to be passed through the Lok Sabha should at least get 251 votes if the House had a total membership of 500 or 261 votes, if the House had a total membership of 520, assuming

that there was no vote cast against the amendment Bill. Now if votes were cast against the Bill then the minimum votes required for the passage would also have to be raised and it has to be so raised that the number cast in favour of the motion should constitute two-thirds of the total number of votes cast. Thus in a House of 500, assuming that all of them had voted, the motion requires 334 votes for passage if the rest voted against it or in a House of 520, assuming that all of them voted, the motion requires 347 votes for passage if the rest voted against it. In other words, if the entire membership of the House voted, 167 members in a House of 500 or 174 members in a House of 520 voting against could turn down the proposal. Similarly, in the Rajya Sabha, an amendment to be passed should at least get 112 votes. if the House had a total membership of 225 or 125 votes, if the House had a total membership of 250, assuming that there was not a single vote cast against the amendment Bill and all the members of the Rajya Sabha had cast their votes. Correspondingly, if votes were cast against a Bill, 76 Members in a House of 225 and 85 in a House 250 by voting against a Bill could turn down a proposal. However, in the entire course of voting on amendment Bills, at any stage, in either House of Parliament, had there been an occasion when all the members of a House voted on an amendment Bill or ever votes cast against a Bill, in either House at any stage, that touched the maximum to throw away a proposal. An analysis of voting at the final stage in the two Houses shows that in the Lok Sabha the maximum number that voted was 408 in a House membership of 520 or 78 per cent and the minimum was 272 in a House of 520 or 52 per cent. In the Rajya Sabha the maximum number that voted was 187 in a House membership of 225 (app.) or 83 per cent and the minimum was 136 in a House of 255 (app.) or 60 per cent. As regards votes secured for an amendment Bill, the maximum in the Lok Sabha and the Rajya Sabha were 381 or 93 per cent of the total votes cast (408) and 185 or 100 per cent of the total votes cast (185) respectively and the minimum in the Lok Sabha and the Rajya Sabha respectively were 269 or 88 per cent of the total votes cast (305) and 123 or 90 per cent of the total votes cast (136). The average of total number that voted on twenty Constitution Amendment Bills (the

first one being left out as that was passed by the Provisional Parliament) in the Lok Sabha comes to 64 per cent of the total strength and in the Rajya Sabha to 68 per cent of the total strength and the average of total votes secured respectively in the Lok Sabha and the Rajya Sabha were 97 per cent and 97 per cent of the total that voted. The analysis also shows that there was an occasion when an amendment was passed with a mere 52 per cent of the total strength of the Lok Sabha and in the Rajya Sabha an amendment that was passed with a mere 55 per cent of its total strength. Eight amendments in the Lok Sabha and ten amendments in the Rajya Sabha were passed without a single vote cast against it and no amendment in either House was passed without securing in its favour at least 87 per cent of the total votes cast.

The above mentioned figures that secured the passage of the Constitution Amendment Bills, impressive as they are, do not establish that by and large the members belonging to the various parties in the Parliament were in favour of the various amendments since on the average only 64 per cent in the Lok Sabha and 73 per cent in the Rajya Sabha of the total strength or membership of the respective Houses participated in the voting on amendments. Nor do the figures represent the average rate of participation of members in the debates on Constitution Amendment Bills in either House. Since no special quorum was required, as it ought to be, for the discussion to take place on Constitution Amendment Bills, mostly members were present in large number during the time of voting, more particularly those belonging to the party in office, to enable the passage of the Bill with the requisite majority. Those who were opposed to the Bill, barring a few that participated in the division and recorded their vote against a motion, either abstained from voting or walked out of the House in protest. That accounts for the small number of votes, if at all, cast against a Constitution Amendment Bill. As against 6,263 votes secured in all in favour of twenty amendment Bills in the Lok Sabha at the final stage the total votes cast against it was only 207. Similarly in the Rajya Sabha as against 3,070 votes cast in favour of twenty amendment Bills at the final stage, only 103 were cast against. In other words, in either House, the votes cast against all the twenty

amendments put together constituted only 3·4 per cent of the total votes cast in favour of the Bills.

Thus, therefore, if at all the opposition to Constitution Amendments should take a tangible and concrete form it is required that as large a number should cast their votes against a measure thereby trying to prevent the securing in favour of a measure voted of a majority of two-thirds of the members of the House present and voting rather than staging a walk-out or abstaining from voting on the ground the official motion was bound to get the requisite majority In this context it needs particular mention that the Rules of the Lok Sabha inasmuch as it interpreted that the majority requirement for the passage of a Constitution Amendment Bill meant not only at the final stage of the passage of the Bill but also at all the effective stages through which the Bill passed is commendable.

While commenting on the requirement of the prescribed majority for the passage of a Constitution Amendment Bill, one is reminded of the three occasions, all of them occurring in the Lok Sabha, when a Constitution Amendment Bill failed to get the requisite majority at an effective stage in the passage of the Bill. The Constitution (Fifth Amendment) Bill introduced as the Constitution (Seventh Amendment) Bill failed to get the requisite majority at the voting on the motion for reference of the Bill to a Select Committee stage ; the Constitution (Seventeenth Amendment) Bill at the voting on the motion that the Bill as reported by the Joint Committee be passed ; and the Constitution (Eighteenth Amendment) Bill introduced as the Constitution (Nineteenth Amendment) Bill at the voting on the motion that the Bill further to amend the Constitution of India be taken into consideration. On all the three occasions the motions would not have been lost if only the members had participated right through the entire course of the discussion on the Bills

Another important issue that requires consideration and assessment in respect of amendment procedure is about ratification by the legislatures of not less than one half of the States by resolutions on amendment of matters contained in the proviso to article 368. Eight out of the twenty-one amendments carried

out till date were referred to the State legislatures for purposes of ratification on the ground that they contained partly or wholly matters specified in the proviso to article 368. Since the State legislatures had to convey their support or opposition to an amendment Bill as a whole, containing as it did sometimes proposals relating to more than one subject or theme but nevertheless all such proposals required reference to State legislatures, a difficulty was experienced in passing a resolution by a State legislature that was inclined to lend support to the amendment as such to the exclusion of a proposal or two. But the most difficult task that confronted the Government was the securing of the requisite number of State legislatures to pass resolutions in favour of an amendment Bill. On one occasion at least, namely, while requiring to obtain ratification by the requisite number of State legislatures for the Third Amendment to the Constitution the Government was driven to a desperate situation. In that particular case, as there was no knowing as to when the State legislatures would be taking up for consideration the Constitution (Third Amendment) Bill, in view of the urgency of the subject-matter of the amendment proposal to be put on the statute book at an early date, the State legislatures were required to be persuaded to convene even special sessions of their legislatures to consider and pass ratification motions. The State legislatures, by and large, did not relish the idea of being hustled into passing ratification motion without adequate time being given to them and more particularly were they averse to the convening of special sessions for the exclusive purpose of consideration of an amendment proposal, in view of the expenditure involved. The difficulty experienced in connection with the Constitution (Third Amendment), particularly in the matter of getting ratification done by the legislatures of States within a certain period, drove the Government to the imperative need to specify a time-limit within which the State legislatures were to convey whether or not they lent their support to an amendment proposal, more so when there was an urgency about it. Thus it came to be that for the first time a time-limit was specified when the Constitution (Seventh Amendment) was forwarded to the States for purposes of ratification. The experiment having proved successful, the practice came to be adopted subsequently whenever

an amendment Bill required ratification by the State legislatures. However as the States could at best be persuaded and not compelled to pass a resolution within the time-limit prescribed, the Government was obliged to extend the time-limit if the States so desired. In other words, dependant as they were on the legislatures of States, the Central Government's approach to the entire question of time-limit within which State legislatures had to convey their disposition towards a Constitution Amendment Bill had to be flexible. The Government's experience in connection with the ratification question in respect of the Constitution (Third Amendment) Bill, in another sense also forced the Government to the necessity of fixing a time-limit for purposes of ratification. The experience was, to recall, that immediately after the ratification by the requisite number of State legislatures was got for the Constitution (Third Amendment) Bill when the Bill was sent to the President for his assent and that was got, the Mysore State Legislative Council complained that they had not been given enough time for the consideration of the Bill and in that context even questioned if it was just and proper under the provision of article 368 that the Presidential assent should be given before all the State legislatures had signified their disposition towards Constitution Amendment Bills one way or the other. To obviate the charge at least that they had been denied a fair opportunity of discussing amendment Bills in which they were vitally concerned, it became necessary to specify a time-limit.

In the State legislatures the ratification motions were invariably passed without a division. Normally the debates on the ratification resolutions were of short duration. As regards the number of States that had ratified the various amendments the Second Amendment was ratified by 13 out of 18 States in the First Schedule ; the Third Amendment by 12 out of 18 States ; the Sixth by 14 out of 18 States ; the Seventh by 13 out of 18 States ; the 13th and 14th Amendments by 13 out of 15 States ; and the 15th and 16th Amendments by 12 out of 15 States.

A third important question connected with the procedure is in respect of the allotment of time for the discussion on Constitution Amendment Bills. By and large, enough time had been

given to the discussion of various amendment Bills at various stages of its discussion. The Business Advisory Committee keeping in view the importance and the scope of Bills allocated time but that time was extended if the House so desired. In the Rajya Sabha, the normal practice, if more time than was recommended by the Business Advisory Committee was required, was to sit through the lunch hour, when particularly they had a tight schedule. Similarly if at the Joint Committee stage more time was required for the submission of their Report on Constitution Amendment Bills, there was no difficulty in getting it. In other words there was hardly an occasion when it was complained that adequate time was not given for the consideration of amendment Bills.

As for the Presidential assent to Constitution Amendment Bills was concerned, there had not been a single occasion when the President was either obliged to withhold or delay deliberately his assent to amendment Bills. On the contrary on occasions when the Presidential assent was required at an early date there had not been any difficulty in getting it. Normally, however, if there was no urgency or when an amendment Bill had evoked controversy, the Presidential assent was not hastened. As a matter of fact enough precaution was taken to ensure, even before an amendment proposal was introduced, that an amendment Bill that was passed by both the Houses of Parliament was not withheld by the President. This is evident from the step that the Government took before introducing the Constitution (Ninth Amendment) Bill that related to the transfer of territories between India and Pakistan. The whole question whether the implementation of the Agreement relating to the Berubari Union No. 12 and the exchange of enclaves required merely legislative action either by way of a suitable law of Parliament relatable to article 3 of the Constitution or by way of suitable amendment of the Constitution in accordance with the provisions of article 368 or both was subjected to a reference being made by the President for the opinion of the Supreme Court under article 143(1) of the Constitution and on being advised that an amendment was necessary for the purpose, an amendment Bill was introduced. Thus the cause for the Presidential assent being withheld ultimately was obviated by such

a procedure. Even otherwise, under the scheme of the Indian Constitution, the Presidential assent was no problem at all.

Turning our attention next to the rules of the two Houses of Parliament in respect of the procedure to be followed regarding amendment Bills to the Constitution it should be said at the outset that the members saw to it that such of those rules that were laid down were scrupulously adhered to. Even if the need for an amendment to the Constitution was imperative, seldom was it effected either by circumvention or suspension of rules without adequate justification or support of the House. The great controversy that took place in connection with the Constitution (Fifth Amendment) namely, whether the Rules of the Lok Sabha had truly reflected or not the intention of the framers of the Constitution, particularly in respect of the stages where the special majority was required for the passage of the Bill, as also relating to the question of suspension of the rule that did not permit the reintroduction of a substantially identical Bill on which the House had given a decision in the same session would testify to the above observation. So much so, twice later when at an effective stage in its passage the Constitution Amendment Bill failed to secure the requisite majority, although in one case entirely the whole House (Lok Sabha) was in favour of an expeditious passage of the amendment Bill, they were reintroduced in a subsequent session rather than in the same one by the suspension of the rule as in the case of the Constitution (Fifth Amendment). Further when in connection with the Constitution (Nineteenth Amendment) Bill although the House (Lok Sabha) permitted the suspension of rule 66 so as to enable the taking into consideration the subsequent related Bills, namely, the Representation of People (Amendment) Bills, it stuck to the objective of the rule that the Constitution (Nineteenth Amendment) Bill be voted and passed prior to the Representation of People (Amendment) Bills.

The two Houses of Parliament not only saw to it that there was a faithful compliance of rules but also that the form in which motions were to be made was adhered to. Thus while making a motion for reference of the Constitution (Sixteenth Amendment) Bill to a Joint Committee, the mover did not find it necessary to

mention the details of form in that regard on the ground that the Joint Committee was going to be the same as for the previous Constitution Amendment Bill, the House through an amendment moved by Shri H.V. Kamath saw to it that the necessary changes were made in the form in which it ought to have been made. However, a rule of the two Houses that there should be a clear gap of two days to a motion that was to be made subsequent to the introduction of a Bill or in other words the need to make available copies of a Bill to members two days before a motion was made in that regard was not scrupulously observed. On three occasions, once in the Lok Sabha and twice in the Rajya Sabha, the rule requiring the two days gap was suspended. This was not proper inasmuch as that such a procedure denied members enough time to study the various aspects of a Bill and to participate in the debate thereof effectively.

Proceeding then to examine other aspects of constitutional amendments and amending procedure, it is to be said that by and large there was poor attendance in the two Houses, except while voting, even when important amendment Bills were being discussed. More often than not there was eagerness to know, more particularly from the official side, even at the outset as to when the divisions or voting on the Bill would take place so that they could stay away while the discussion was on and be present only to cast their vote for or against the Bills when the voting was to take place. If, however, the debate came to an end before the anticipated hour i.e. before the time allocated for the Bill by the Business Advisory Committee or subsequently as decided on by the House, then there was poor voting on the motion or sometimes the motion was even lost. The Constitution (Eighteenth Amendment) Bill as it was originally introduced was lost simply because the debate came to an end before anticipated and the number of members that could participate in the voting was far less than the requisite number for the passage of the Bill. Curiously enough, the members who could not be present instead of admitting their fault often advanced an argument that they were unable to participate in the division since they were held up in connection with some other parliamentary business. If, however, what they had said was correct then there was something

wrong in the way business in Parliament was being transacted or else that Parliament did not attach as much importance to the discussion of Constitution Amendment Bills as it ought to that it permitted transaction of some other business while the debate on a Constitution Amendment Bill was in progress.

An interesting feature about constitutional amendments and amending procedure has been that the first twenty amendments have been introduced in the Lok Sabha although a Bill to amend the Constitution, under article 368 of the Constitution could be introduced in either House of Parliament. The Constitution Twenty-first Amendment) Bill relating to the amendment of the Eighth Schedule for the inclusion of Sindhi as one of the languages has been the first amendment proposal that had emanated from the Rajya Sabha and put on the statute book. Thus it has come about that the Rajya Sabha had always considered a Constitution Amendment Bill as passed by the Lok Sabha. In other words, the Rajya Sabha never had an opportunity to discuss a Constitution Amendment Bill as introduced in the Lok Sabha except when no change was effected in the original Bill by the Lok Sabha. Viewed in the context that no Constitution Amendment Bill was introduced in the Rajya Sabha, forgetting for a while the Constitution (Twenty-first Amendment) Bill that was introduced in the Rajya Sabha, it appears that the Rajya Sabha had merely a secondary role to play so far as amendments to the Constitution were concerned. If that be so, one is inclined to ask if that was the intention of the framers of the Constitution. Well, although it could not be said that the framers of the Constitution had desired that the Rajya Sabha should be a junior partner in the amending process, certainly by implication they had meant that the House in which a Bill was introduced had the right to make any modifications in the Bill and the other House had merely to consider the amendment proposal in the form in which it was approved and passed. It was because of the reason, namely, that the Lok Sabha consisted entirely of representatives directly chosen by the people and as such should have the right to consider an amendment proposal in its original and not in the modified form that Constitution Amendment Bills were introduced in the Lok Sabha. In this connection it should be said that the Constitu-

tion (Twenty-first Amendment) Bill was introduced in the Rajya Sabha as no modification was possible in it. One could recall in this context how, in connection with the Constitution (Eighth Amendment) Bill, the Lok Sabha voted out one of the two amendment proposals contained in it, so much so the Bill as passed by the Lok Sabha and which the Rajya Sabha had subsequently to consider had only one amendment proposal. A question that might be asked in this regard is as to what would have happened if the Constitution (Eighth Amendment) Bill had been introduced in the Rajya Sabha. The answer to that is simple, namely, that such a Bill would never have been introduced in the other House in view of the subject-matter of the proposals contained in it.

Now, since it happens to be that Constitution Amendment Bills were introduced in the Lok Sabha, it had always become necessary for the Rajya Sabha to take necessary steps for obtaining not only the Presidential assent on such of those amendment proposals by the two Houses but also the ratification required by the requisite number of State legislatures. For this purpose the procedure adopted by the Rajya Sabha was as follows : Immediately after an amendment Bill that required ratification by State legislatures was passed by the Rajya Sabha, the Secretary to the Rajya Sabha Secretariat addressed a letter to the Secretary, Ministry of Law (Legislative Department), requesting him, on behalf of the Parliament of India, to get the necessary ratification done by the various State legislatures. The Secretary, Rajya Sabha forwarded to the Law Ministry, along with his letter, adequate number of copies of the amendment Bill as passed by the two Houses as also copies of parliamentary debate on the Bill. The Secretary, Ministry of Law (Legislative Department) in his turn addressed letters to the various Chief Secretaries of State Governments to have the amendment Bill placed before their State legislatures for purposes of passing a resolution in that regard. He also sent to the Chief Secretaries copies of the amending Bill as well as the parliamentary debates thereon enough to meet the requirement of the respective State legislatures. It was also incumbent on the Law Secretary to keep in constant touch with the Chief Secretaries and try to get the ratification done at an

early date and if a time-limit was specified within which State Legislatures were expected to ratify the proposal, he was to see to it that that was done. Immediately after half the number of State legislatures had ratified an amendment proposal, the Law Secretary communicated the information to the Secretary, Rajya Sabha. The Secretary, Rajya Sabha, thereon addressed a letter to the Secretary to the President to the effect that as the requisite number of State legislatures had ratified the amending Bill the President might give his assent.

A noteworthy feature of Constitution amendments in India has been that there was no case of conflict between the two Houses in the matter of any amendment so much so not a single amendment Bill had been referred back to the House of origin nor to a joint sitting of the two Houses.

Now after having dealt with official constitutional amendments that have been put on the statute book, a word or two has to be said in respect of private members' Constitution Amendment Bills introduced and discussed in the two Houses of Parliament. That although amendments to the Constitution could be initiated by any member of Parliament ; in view of the special majority of votes required to carry it through, it was evident that a private member's Bill seeking to amend the Constitution was to serve a limited purpose. As if this objective that a private member's Bill was to serve was not evident, the Committee on Private Members' Bills and resolutions of the Lok Sabha made it clear on the very first occasion when it was called upon to examine certain Constitution Amendment Bills that were intended to be introduced in the Lok Sabha. The Rajya Sabha, on the other hand, took it for granted that a private member's Bill relating to Constitution amendment was to serve a limited objective and hence did not either subject such Bills, as in the Lok Sabha, to examination to find out if that could be introduced, or laid down, through its Committee on private members' Bills and resolutions, the objectives of private members' Constitution Amendment Bills. Yet another difference in the practice of the two Houses in respect of private members' Bills is in respect of ballotting. That while in both the Houses private members' Constitution Amendment Bills were

ballotted along with other Bills, the Rajya Sabha took up for consideration Constitution Amendment Bill in the order in which it was introduced whereas in the Lok Sabha the Constitution Amendment Bill that secured priority was taken up for consideration, irrespective of its time of introduction. The adoption of such a practice in the Lok Sabha as has been pointed out earlier, does not commend itself inasmuch as there is a possibility of a Constitution Amendment Bill that had been introduced in the very first year of the life of a Parliament denied the opportunity of being discussed if it had not succeeded in the ballots while the one that had been introduced much later than that of being discussed as having secured priority in the ballot. A Constitution Amendment Bill, important as it is, although initiated by a private member and was only to serve a limited objective, should be discussed after having been ballotted with other Bills, in the order of their introduction.

The survey of constitutional amendments and amending procedure in India indicate that by and large the constitutional amendments adopted till date were not only necessary but had effected an improvement in the constitutional framework and that the procedure provided for the amendment of the Constitution under article 368 of the constitution had worked satisfactorily. However, the development of certain conventions and certain alterations in the rules of procedure is required if the criticism that hasty and improper amendments were effected was to be avoided. First and foremost is the need to develop a convention that the Presidential assent to Constitution Amendment Bills that need ratification by the State legislatures was given only after all the State legislatures had considered an amending Bill referred to them. For the realisation of the above objective and to avoid procrastination on the part of the State legislatures, a reasonable time-limit should be fixed within which the State legislatures could give their opinion. The time-limit should synchronise with the normal sessions of State legislatures and that it should be adequate enough for them to enable a thorough discussion. The tendency to request State legislatures to convene special sessions exclusively for the purpose of consideration of Constitution Amendment Bills should

be discouraged. Further a Constitution Amendment Bill that requires ratification by States should confine itself to a single article or to co-related articles and not to un-co-related articles pertaining to various subjects as it might present difficulties to State legislatures in passing resolutions particularly when it is in favour of certain proposals and opposed to others. It is also desirable that a convention was developed whereby a discussion on a Constitution Amendment Bill was held only when a prescribed quorum for the purpose was there. But better than a covention in that respect is to provide for in the rules of the House itself that unless a special, naturally higher, quorum was there, discussion on a Constitution Amendment Bill would not continue. Such a requirement would lend a distinctive character to Constitution Amendment Bill. Further, a concomitant to the special majority requirement for the passage of Constitution Amendment Bills is the requirement of a special or a higher quorum during the discussion on Constitution Amendment Bills. Thus while a convention might be established that when a Constitution Amendment Bill was being discussed there was the maximum number present, the rules of the House should provide a higher quorum requirment during discussion on Constitution Amendment Bills than the one existing for discussion on ordinary Bills. Then there is the need for a convention in the Lok Sabha whereby as in the case of the Rajya Sabha, the private members' Constitution Amendment Bills after having been ballotted along with ordinary Bills should be discussed in the order in which they were introduced. This is necessary as otherwise the objective for which a Constitution Amendment Bill was introduced would not be fully served. An amendment to the Constitution is sought, to reiterate, because a cause had arisen and as the question requires early attention, such a Bill has got to be discussed at the earliest opportunity. By the convention suggested it would obviate the possibility of a Bill introduced in the early stages of the tenure of a Parliament not being discussed at all till the end of it and ultimately lapsing.

Epilogue

In the preceding pages an attempt had been made to analyse the various aspects of constitutional amendments and amending procedure under the Indian Constitution. The approach to the whole question has been academic. Answers have been provided to important and controversial issues that have arisen, particularly regarding the nature of amendments, the frequency and if the fundamental rights guaranteed under the Constitution are so transcendental that they cannot be amended by the machinery and through the process envisaged under article 368 of the Constitution. The amendments have been effected, it has been shown, not on partisan considerations but on broader national considerations and on the imperative need for them. Most of the criticisms against constitutional amendments have been made on the mistaken notion that a Constitution framed by a Constituent Assembly could not be amended, particularly the basic and more fundamental provisions of the Constitution, by the machinery and the process envisaged under article 368, exclusively meant for the purpose. The entire question of the machinery for the purpose of carrying out the amendments to the Constitution as well as the process for the same was thrashed out thoroughly at the back stages of the Constituent Assembly, namely, by the Union Powers Committee of the Constituent Assembly, the sub-Committee of the Union Powers Committee on Constitutional Amendments as well as by the Drafting Committee. Vital changes were necessitated at every stage. Even when the Constituent Assembly was considering the draft article, a change was felt desirable and the same was effected. The procedural aspect as well as the machinery for the purpose of consitutional amendments having been so thoroughly gone into it was felt that there was no need for the Constituent Assembly when it met to consider the draft article relating to the procedure and the authority for the amendment of the Constitution, to devote

more time for the subject. Thus the charge that the amending procedure in Indian Constitution had not been properly examined or that adequate consideration had not been given to it before being incorporated into the Constitution simply because the Constituent Assembly had disposed it in a summary fashion, so to say, is not proper. As a matter of fact discussions in the Constituent Assembly on most of the vital problems have been short and precise and therefore inferences drawn solely on the basis of the extent of discussions in the Constituent Assembly on various provisions of the Constitution would be erroneous.

Neither the machinery meant for the purpose of amendment of the Constitution nor the procedure provided for in article 368 for the amendment of the Constitution has been subjected to any criticism worth the name. At least the competence of the amending machinery to amend any provision of the Constitution, subject to the procedure laid down in article 368, has not been questioned till recently even by the Supreme Court. It was taken for granted that the machinery provided for was the most appropriate one, particularly in view of the nature of the Constitution and the provisions made therein. Since the greatest amount of thought was given to the provision of the amending clause in our Constitution, even the procedure contained in article 368 was not found to suffer from any inherent defect. Before the judgment of the Supreme Court in Golak Nath's case was pronounced, proposals for the modification of the amending procedure were made thrice, through Private Members' Constitution Amendment Bills. All the three proposals emanated from the Lok Sabha. The very first proposal made by Shri H.V. Kamath on 19th April, 1963, over thirteen years after the Constitution was promulgated, sought to make the amending process more rigid by suggesting a larger majority requirement. It was felt that the existing majority requirement was low enough for the party in power to make changes in the Constitution frequently. In this connection attention should be drawn to the fact that the very first proposal to amend the amending clause in the U.S. Constitution, made in 1864, was for the reduction of the majorities both for the proposal and ratification of amendments.

There was a growing opinion among jurists and publicists during that period lasting up to the beginning of the year 1909 that the amending process was difficult. Woodrow Wilson wrote in his 'Congressional Government' in 1885 :

> 'It would seem that no impulse short of the impulse of self-preservation, no force less than the force of revolution, can now-a-days be expected to move the cumbrous machinery of amendment created in Article V. That must be a tremendous movement which can sway two-thirds of each House of Congress and the people of three-fourths of the States.'

In a similar strain Prof. Charles A. Beard in the American Government and Politics observed :

> 'The extra-ordinary majorities required for the initiation and ratification of amendments have resulted in making it practically impossible to amend the Constitution under ordinary cirumstances and it must be admitted that only the war power in the hands of the federal government secured the passage of the great clauses relating to slavery and civil rights.'

Munroe Smith wrote an article in the North American Review entitled 'Shall We Make Our Constitution Flexible ?' (194, p. 657) and Burgess in his 'Political Science and Comparative Constitutional Law' made proposals for an easier method of amendment (pp. 150-154). Herman V. Ames draws attention to the fact that even as late as 1909 there was the feeling that the amending process in the U.S.A. was too difficult. He mentions an address delivered by the late Justice William P. Potter of the Supreme Court of Pennsylvania in 1909 wherein he had observed that 'the expectations of the Fathers of the Republic that the method of amendment which they provided would be satisfactory has not been fulfilled', and therefore, he thought that it was time for the American people seriously to consider the adoption of an easier process for altering or amending the Constitution. (The Amending Provision of the Federal Constitution in Practice—American Philosophical Society Proceedings, Vol. 63, p. 68). To this end, he advocated the adoption of the system in practice in many of the American State Constitutions, namely, that an amendment might be proposed by a majority vote of both Houses

of Congress and ratified by a majority of the qualified voters in a majority of States.

However no such amendment was effected or even seriously considered. Subsequent experience also demonstrated that there was no need for making the Constitution flexible. Woodrow Wilson himself, when he became President witnessed the adoption of four amendments almost in a little over a decade without any upheaval through the normal working of the provisions of Article V. It thus became evident that the difficulty experienced in amending the Constitution was not due to the so-called rigid character of the amending clause but to something else. The nature of amendments proposed were such that they could not find acceptance. Writing under the caption 'Tinkering with the Constitution' in the Yale Law Journal in May, 1915 and subsequently reproduced in the Constitution Review (Vol. 2, 1918) Joseph R. Long made the following observation with regard to the amendment proposals, the non-acceptance of which prompted writers to put the blame on the amending clause :

> 'Upon a study of these proposals it is found that they relate to a comparatively small number of different subjects. Many of them are simple repetitions and as a matter of fact the number of independent propositions of consequence has been small. When we consider the character of the amendments proposed, we find that they frequently do not represent any real and permanent public sentiment, but embody merely the notion of some individual Congressman or a temporary popular emotion that passes with the exciting cause. Many of the amendments proposed are of the most trivial character or relate to matters of detail far better left to legislation.'

As a matter of fact when four amendments were accepted in a little over a decade (1909-1920), it was wondered whether the amendment procedure was at all rigid and proposals were made to make the process difficult. That while Mitchel A. Musmanno wrote an article in the American Law Review in 1923 (Vol. 57) 'Is the Amendment Process Too Difficult ?', Justin Miller wrote in the Minnesota Law Review in 1926 an article entitled 'Amendment of

the Federal Constitution : Should it be Made More Difficult ?' (Vol. 10).

Shri Kamath's amendment proposal, although discussed in the Lok Sabha, was rightly negatived since the motive behind it was merely to prevent the party then in power to make any amendment to the Constitution, a temporary remedy to meet a particular situation. It should be recalled that it was the self-same Shri Kamath who had pleaded in the Constituent Assembly that the amendment to the Constitution should be more flexible. Perhaps he did not anticipate that so many amendments would be made. But if there was a genuine feeling that the party in power was 'tinkering' with the Constitution, the remedy should not be found in 'tinkering' with the amending process but in something else. A higher majority requirement than the one provided for in the Constitution for purposes of amendment of the Constitution, might produce greater harm in the sense that it would not merely prevent a particular government in power against whom it was directed but it would prevent any other government that follows to make amendments however desirable those might be. Such a requirement, at least in the context of the provisions in the Constitution of India, would be most inappropriate.

The objectives of the second and third amendments to the amending clause were, respectively, to impose a time-limit for reintroduction of a Constitution Amendment Bill that had once been rejected by either House or Parliament and the inclusion of Part III in the proviso to article 368 whereby any amendment to Part III would require ratification by the requisite number of States. The former was introduced by Shri H.V. Kamath on 25th September, 1964 and the latter by Shri Yashpal Singh on 19th February, 1965. Both the Bills lapsed without being discussed. However, even if they had been discussed it is doubtful if they could find acceptance. That while the proposal to include Part III in the proviso to article 368 was considered by the Constituent Assembly and rejected it would not be desirable to impose a time-limit for reintroduction of a rejected Bill since a Bill once rejected would not be reintroduced unless there was an imperative necessity for it. Besides, as amending the Constitution, far from being a first recourse is a

channel of last resort for obtaining what cannot be had by statute, by usage, or by judicial interpretation, the sooner the desired change is effected the better. A convention in this regard would be preferable to a constitutional provision as that would permit re-introduction of a rejected Bill, if and when such a thing is desired. Or if at all an implicit provision is to be made, the Rules of the House that prohibit the re-introduction of a rejected Bill in the same session could be suitably modified to achieve that purpose.

Subsequent to the Supreme Court's judgment on Golak Nath's case three other proposals were made for amending article 368. That while one of them is the re-introduction of a lapsed Bill, that of Shri Yashpal Singh's for the inclusion of Part III in the proviso, the other two Bills, one by Shri Nath Pai and the other by Shri K.R. Ganesh seek to make clear that any provision in the Constitution could be amended by article 368, the exclusive article meant for the purpose. Shri Nath Pai's Bill has found support from the official side and has been referred to the Joint Committee of the two Houses, while Shri Ganesh's Bill is yet to be discussed. Even these clarificatory amendments, more particularly the one by Shri Nath Pai, are hardly necessary. But some such clarification seems necessary at the moment in view of the Supreme Court's recent judgment.

Lately an opinion is prevalent that it would be difficult to amend the Constitution in future in view of the reduced majority of the ruling party. Such an opinion is based on the mistaken notion that constitutional amendments effected till now have been motivated by partisan considerations and that there had been, by and large, little or no support from other members of the Houses of Parliament. In the past there had been several constitutional amendments which had received whole-hearted support from the various sections of the two Houses of Parliament and as such there is no reason why in the future such support should not be forthcoming. All the same if the members of the opposition join hands solely for the purpose of defeating an amendment to the Constitution, however necessary that might be, on the ground that it had emanated from the Government then certainly the amendment to

the Constitution would not only be difficult but even impossible. Such a contingency, one can be rest assured, would not arise and an amendment proposal that seeks to achieve the objectives enshrined in the Constitution and that is based on national considerations and larger public interest would certainly receive the support of every section of the two Houses of Parliament. As a matter of fact a redeeming feature consequent on the change in the complexion of representation in the Lok Sabha, would be a larger attendance not only at the time of House divisions on Bills but also during the entire course of discussion on Constitution Amendment Bills. Similarly, one can expect the requisite number of State legislatures to ratify a desirable Constitution amendment proposal although in a number of State legislatures the majority party in Parliament is in a minority.

APPENDIX

(A) Text of Amending Clauses in Other Constitutions of the World

AFGHANISTAN

Constitution of Afghanistan
(Promulgated on 1st October, 1964)

Title Ten
Amendment

Art. 120. Adherence to the basic principles of Islam, Constitutional Monarchy in accordance with the provisions of this Constitution and the values embodied in Article 8 shall not be subject to amendment.

Amendments to other provisions of the Constitution may be initiated by the Council of Ministers or one-third of the members of the Wolesi Jirgah (House of the People) or the Meshrano Jirgah (House of Elders), in accordance with the provisions of this Title.

Art. 121. The proposal for amendment is discussed by the Loya Jirgah (Great Council), and in case a majority of the members approve its necessity, a committee from amongst its members shall be appointed to formulate the amendment. The Committee shall formulate the amendment with the advice of the Council of Ministers and the Supreme Court, for submission to the Loya Jirgah (Great Council). In case the Loya Jirgah (Great Council) approves the draft amendment with a majority vote of its members, it is submitted to the King. The King shall dissolve the Shura (Parliament), circulate the draft amendment to the public and proclaim the date of the new elections. The new elections shall take place within four months from the dissolution of the Shura (Parliament).

Art. 122. Following the opening of the Shura (Parliament) and the formation of the Government the King summons the Loya Jirgah (Great Council), which, after consideration, approves or rejects the text of the draft amendment. The decision of the Loya Jirgah (Great Council) in this respect shall be by a two-thirds majority of vote of its members and shall be enforced after it has been signed by the King.

(Art. 8. The King shall be an Afghan national, a Muslim and a follower of the Hanaji doctrine).

AUSTRALIA

Constitution of the Commonwealth of Australia
July 9, 1900.

Chapter VIII

Alterations of the Constitution

Art. 128. This Constitution shall not be altered except in the following manner.

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it or passes it with any amendment to which the first mentioned House will not agree, and if after an interval of three months the first mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first mentioned House, and either with or without any amendments subsequently agreed to by both Houses,

to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors, the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails. And if in a majority of the States, a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament of the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

BELGIUM

Constitution of Belgium, February 7, 1831

Title VII

The Revision of the Constitution

Art. 131. The legislative power has the right to declare that a revision of such constitutional provisions as it shall designate is in order. After this declaration, the two Houses are *ipso facto* dissolved.

Two new Houses shall then be summoned in conformity with Article 71. These Houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case, the Houses shall not deliberate unless at least two-thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two-thirds of the votes.

BOLIVIA

Political Constitution of the Bolivian State of November 23, 1945

Section XXI
Amendments of the Constitution

Art. 174. This Constitution may be amended in part, but the necessity for the amendment and the determination thereof in a precise manner shall be previously made by means of an ordinary law, passed by two-thirds of the votes of the members present in each Chamber.

This law may be originated in constitutional form in either Chamber.

The law providing for the amendment shall be sent to the Executive for its promulgation.

Art. 175. The constitutional amendment shall be taken up by the Chamber in which it originated at the first meeting of the session of Congress in which the members of the Chamber of Deputies have been renewed. And if the amendment is declared necessary by two-thirds of the members present, it shall be referred to the other Chamber, where it shall also require a two-thirds vote.

All other stages through which the measure has to pass shall be the same established by the Constitution when fixing the relations between the two Chambers.

Art. 176. The Chambers shall deliberate and vote upon the amendment causing it to be in conformity with the constitutional provisions determined by the law under which it is ordered.

The amendment, once enacted, shall be forwarded to the Executive for its promulgation, the President of the Republic having no power to object to it.

Art. 177. When the amendment refers to the constitutional term of office of the President of the Republic, it shall be enforced in the following Presidential period.

BURMA

Chapter XI
Amendment of the Constitution

Art. 207. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner hereinafter provided.

Art. 208. (1) Every proposal for an amendment of this Constitution shall be in the form of a Bill and shall be expressed as a Bill to amend the Constitution.

(2) A Bill containing a proposal or proposals for the amendment of the Constitution shall contain no other proposals.

Art. 209. (1) Such Bill may be initiated in either Chamber of Parliament.

(2) After it has been passed by each of the Chambers of Parliament, the Bill shall be considered by both Chambers in joint sitting.

(3) The Bill shall be deemed to have been passed by both Chambers in joint sitting only when not less than two-thirds of the then members of both Chambers have voted in its favour.

(4) A Bill which seeks to amend :—

(a) The State Legislative List in the Third Schedule, or

(b) The State Revenue List in the Fourth Schedule, or

(c) An Act of the Parliament making a declaration under paragraph (iv) of sub-section (1) of section 74 removing the disqualification of any persons for membership of the Parliament as representatives from any of the States,

shall not be deemed to have been passed at the joint sitting of the Chambers unless a majority of the members present and voting, representing the State or each of the States concerned, as the case may be, have voted in its favour.

(5) A Bill which seeks to abridge any special rights conferred by this Constitution on Karens or Chins shall not be deemed

to have been passed by the Chambers in joint sitting unless a majority of the members present and voting, representing the Karens or the Chins, as the case may be, have voted in its favour.

Art. 210. Upon the Bill being passed in accordance with the foregoing provisions of this Chapter, it shall be presented to the President who shall forthwith sign and promulgate the same.

HONDURAS

Political Constitution of the Republic of Honduras

March 28, 1936

Title XIV
Chapter I : The Reform

Art. 200. The Constitution and the constitutive laws may be reformed partially by a Congress in ordinary session, with two-thirds of the votes of its members, the respective decree having to be ratified by the following ordinary legislature, also by two-thirds of the votes of its members, in order that the reform may go into effect.

The reform of Articles 117, 118 and 200, or of one or more of these three and the total reform of the Constitution and the constitutive laws can only be effected by a Constituent Assembly, convoked for this purpose by the National Congress.

IRAN

The Iranian Constitution
December 30, 1906

Supplementary Article of the Amendment of May 7, 1949

A Royal Decree for the establishment of a Constituent Assembly and for elections to such an Assembly shall be issued whenever the Majlis and the Senate, either independently or upon the suggestion of the Government, by a vote of not less than

two-thirds of all the Deputies and Senators approve the necessity to reconsider one or more articles of the Constitution or an amendment thereof, and when this view is confirmed by His Imperial Majesty.

The Constituent Assembly shall be composed of the same number of Deputies as the total number of both Representatives and Senators. Elections to the Constituent Assembly shall be carried out in compliance with the procedure to be laid down by both Houses.

The Constituent Assembly, thus elected, shall be invested with the power to reconsider the article or articles specified by agreement of both Houses and confirmed by His Majesty.

Decisions of the Constituent Assembly shall be taken by the vote of not less than two-thirds of all the Deputies, and shall be enforceable upon confirmation by His Imperial Majesty.

This article shall not apply to the articles of the Constitution and amendments thereof concerning the Sacred Religion of Islam and the Official Religion of the country, viz., the righteous schism of the souodecimist Ja'tarites and amendments thereof, nor to the provisions relating to the Constitutional Monarchy of Iran, namely, articles 4, 5, 6 and 7 of the Constitution, the comments on articles 7 and 8 thereof and article 2 of the amendment thereof. For the purpose of considering the references and laws complied in accordance with those articles, the Majlis and the Senate shall, after the enactment of this article, and immediately after the convocation of the two Houses, reconsider once and for all the aforementioned articles. For this purpose, a session of both Houses shall meet under the chairmanship of the President of the Senate and shall make any necessary amendments by a vote of not less than two-thirds of all the Representatives and Senators. Any amendments thus agreed to shall be enforceable upon confirmation of and signature by His Imperial Majesty.

Art. 4. The number of Deputies for Teheran and the provinces.

Art. 5. Tenure of Office of Deputies.

Art. 6. Discussion and debates.
Art. 7. Quorum and other matters.
Art. 8. Duration of the Assembly.

DRAFT CONSTITUTION FOR EAST GERMANY

(Adopted by the Volkstyat on March 19, 1949)

C. Structure of the Foreign Power

III—Legislation

Art. 83. The Constitution can be amended by legislation.

The People's Chamber may act on legislation to amend the Constitution only if at least two-thirds of the representatives are present and such enactments require a two-thirds majority of those present.

If an amendment to the Constitution is to be adopted by means of a popular referendum, the assent of the majority of the qualified voters is required.

PROPOSED CONSTITUTION FOR THE STATE OF ISRAEL

(Released on December 10, 1948)

VI—Amendment of the Constitution

Art. 75. The Chamber of Deputies shall have power to amend the Constitution, but every such amendment shall require the assent of two-thirds of the total membership of the Chamber and shall not come into force unless passed by that majority in two successive sessions of the Chamber and unless not less than six months have elapsed between the two successive enactments.

BRAZIL

Constitution of the United States of Brazil
September 24, 1946

Title Nine
General Provisions

Art. 217. The Constitution may be amended.

1. An amendment shall be considered proposed, if presented by at least one-fourth of the members of the Chamber of Deputies or of the Federal Senate, or by more than one-half of the Legislative Assemblies of the States, in the course of two years, each of these manifesting itself by majority of its members

2. An amendment shall be considered accepted if it be approved in two discussions by an absolute majority of the Chamber of Deputies and of the Federal Senate, in two ordinary, consecutive legislative sessions.

3. If the amendment shall obtain in one of the Chambers in two discussions, the vote of two-thirds of its members, it shall immediately be submitted to the voters ; and if approved in this Chamber by the same process, and by equal majority, it shall be considered accepted.

4. The amendment shall be promulgated by the Executive Committees of the Chamber of Deputies and of the Federal Senate. After publication, over the signatures of the members of both Committees, it shall be appended, with its respective sequence number, to the text of the Constitution.

5. The Constitution shall not be modified while a state of siege is in force.

6. Bills tending to abolish the Federation and the Republic shall not be admitted to consideration.

BULGARIA

Constitution of the Peoples' Republic of Bulgaria
December 4, 1947

Chapter X

Amendment of the Constitution

Art. 99. The Constitution may be amended on the proposal of the government, or of at least one quarter of the Deputies.

The Constitution Amendment Bill is put on the agenda of the National Assembly within a week from its introduction in the Assembly.

It may be passed by a majority of two-thirds of the total number of deputies. The law for the amendment of the Constitution comes into effect on the day of its publication in the State Gazette.

BYLORUSSIAN S.S.R.

Constitution (Basic Law) of the Bylorussian Soviet Socialist Republic—February 19, 1937

Section XI

Method of Modification of the Constitution

Art. 122. Modification of the Constitution of the Bylorussian Soviet Socialist Republic is made only upon a decision of the Supreme Soviet of the B.S.S.R., when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

CAMBODIA

Constitution of the Kingdom of Cambodia—May 6, 1947

Title No. 9
General Provisions

Art. 97. The provisions referring to the Monarchic form of the State, to the representative character of the system of government and the principles of liberty and equality guaranteed by the present Constitution cannot be subjected to any motion of revision

Art. 98. No revision can bring about the limitations of the rights reserved to the Royalty by the present Constitution.

Art. 99. The initiative of the revision of the Constitution belongs to the King, the Prime Minister and the Presidents of the two Houses, these last taking steps after a favourable vote of the House which they preside over, made at the request of at least one-fourth of the members of that House.

Art. 100. The procedure of revision of the Constitution is identical with that fixed for the vote of ordinary Acts. However,

a majority of 3/4 is required of the National Assembly and the case of emergency cannot be declared.

CHILE

Political Constitution of the Republic of Chile
September 18, 1925

Chapter X
Amendment of the Constitution

Art. 108. The amendment of constitutional provisions will be submitted to the same procedure as a proposal of law, saving the exceptions hereinafter indicated.

A Bill for amendment must receive for approval in each body the affirmative vote of a majority of the Deputies or Senators entitled to vote.

Sixty days after the approval of a Bill as provided for in the preceding paragraph, the Congress in public Joint Session, with the attendance of a majority of its total membership, shall take cognizance of the Bill and proceed to vote thereon without further debate.

The Bill approved by a majority of the Joint Session of Congress shall be sent to the President of the Republic.

If upon the day designated a majority of the total membership of the Congress does not meet, the session shall be held the following day with such Deputies and Senators as may be in attendance.

Art. 109. The President of the Republic may make observations upon the Bill only to propose changes or corrections in the amendments agreed upon by the Joint Session of Congress.

If the modifications that the President of the Republic may suggest are approved by both Chambers, the Bill shall be returned to the President for promulgation.

If the two Chambers reject all or any of the suggestions of the President of the Republic and insist by a vote of two-thirds of their members present upon all or part of the Bill approved

by them, it shall be returned to the President for promulgation or in order that the points in disagreement may, should he deem it convenient, be submitted to the people in a national referendum, within thirty days. The proposal approved by the plebiscite will be promulgated as a constitutional amendment.

Art. 110. When the proposal is promulgated, its provisions shall form a part of the Constitution and be incorporated therein.

CHINA

The Constitution of the Republic of China
December 25, 1947

Chapter XIV
Enforcement and Amendment of the Constitution

Art. 174. Amendments to the Constitution shall be made in accordance with one of the following procedures :

(1) Upon the proposal of one-fifth of the total number of the representatives of the National Assembly and by a resolution of three-fourths of the representatives present at a meeting having a quorum of two-thirds of the entire Assembly, an amendment may be made.

(2) Upon the proposal of one-fourth of the members of the legislative Yuan and by a resolution of three-fourths of the members present at a meeting having a quorum of three-fourths of the members of the Yuan, an amendment may be drawn up and submitted to the National Assembly for ratification. Such a proposed amendment to the Constitution shall, six months before the coming into session of the National Assembly, be publicly published.

COLOMBIA

Political Constitution of the Republic of Colombia
February 16, 1945

Title XXI
An Amendment of this Constitution

Art. 218. The Constitution may be amended only by a

legislative act first discussed and approved by the Congress in its ordinary sessions, published by the government, for its definitive consideration in the following ordinary legislature, debated again by the said legislature; and ultimately approved by the absolute majority of the individuals comprising each House. If the government does not publish the Bill in due course, the President of the Congress shall do so.

CEYLON

The Ceylon (Constitution) Order in Council, 1946

Part III

The legislature

Legislative Powers and Procedure

Art. 29. (1) Subject to the provisions of this Order, Parliament shall have power to make laws for the peace, order and good Government of the Island.

(2) No such law shall—

(a) prohibit or restrict the free exercise of any religion ; or

(b) make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable ; or

(c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religion ; or

(d) alter the Constitution of any religious body except with the consent of the governing authority of that body :

Provided that, in any case where a religious body is incorporated by law no such alteration shall be made except at the request of the governing authority of that body

(3) Any law made in contravention of sub-section (2) of this section, shall, to the extent of such contravention, is void.

(4) In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this Order, or of any other Order of His Majesty in Council in its application to the Island :

Provided that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal assent unless it has endorsed on it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the whole number of members of the House (including those not present).

Every certificate of the Speaker under this sub-section shall be conclusive for all purposes and shall not be questioned in any court of law.

(Section 4 of the above Order is relevant for the purpose of the amendment of the Constitution).

COSTA RICA

Constitution of the Republic of Costa Rica
November 8, 1949

Title XVII

Amendments to the Constitution

Art. 195. The Legislative Assembly may partially amend this Constitution by adhering strictly to the following provisions :

(1) A proposal in which the amendment of one or more articles is sought must be presented to the Assembly at regular sessions, signed by at least ten Deputies ;

(2) The proposal shall be read three times at intervals of six days, to determine whether or not it shall be admitted for discussion ;

(3) If such action is affirmative, it shall be sent to a Committee appointed by absolute majority of the Assembly which is to submit its report within a period of eight days ;

(4) When this report is submitted, it is debated in accordance with the procedure for the enactment of laws ; the amendment must be approved by a vote of not less than two-thirds of the entire membership of the Assembly ;

(5) After the amendment is agreed to, the Assembly shall prepare the corresponding Bill, through a Committee, an absolute majority for approval being sufficient in this case ;

(6) The Bill is then sent to the Executive Power and the latter shall send it to the Assembly with the Presidential Message at the next regular legislative period, with his observations or recommendations ;

(7) The Legislative Assembly, at the first session, shall discuss the Bill in three debates, and if it is approved by a vote of not less than two-thirds of the entire membership it shall become a part of the Constitution and communicated to the Executive Power for publication and observance.

Art. 196. The general amendment of this Constitution, after approval of a Bill in accordance with the procedure outlined in the preceding article, can be effected only by a Constituent Assembly called for the purpose.

CUBA

Constitution of the Republic of Cuba

July 5, 1940

Title Nineteenth
Revision of the Constitution

Art. 285. The Constitution can be revised only :

(a) By initiative of the people, by means of presentation to Congress of the corresponding proposition, signed, before the electoral bodies, by not less than one hundred thousand voters who know how to read and write and in accordance with what is established by law. When this has been done, Congress shall assemble as a single body and within the following thirty days shall without discussion vote the proper law to call an election of delegates or a referendum ;

(b) By initiative of the Congress, by means of the corresponding proposition signed by not less than one-fourth of the members of the co-legislative body to which the proponents beloog

Art. 286. Constitutional revision shall be specific, partial or complete.

In case of a specific or partial revision, proposed by popular initiative, it shall be submitted to a referendum at the first election that is held, provided that the new precept that it is sought to incorporate or the existing one that it is sought to revise, is susceptible of being proposed in such a manner that the people can approve or reject it by answering "yes" or "no".

In case of a specific or partial renewal by initiative of Congress, its approval shall be necessary by a favourable vote of two-thirds of the total number of members of both co-legislative bodies, jointly assembled, and the said revision shall not be effective if it is not ratified in like manner within the following two regular sessions.

In case the revision is complete, or relates to the national sovereignty, or to Articles 22, 23, 24 and 87 of this Constitution, or to the form of the government, after the aforesaid requisites have been complied with, according to whether the initiative comes from the people or from Congress, an election shall be called for delegates to a Plebiscitary Assembly, which shall be held six months after it is resolved on and which shall limit itself exclusively to approving or rejecting the revisions proposed

This Assembly shall fulfil its duties entirely independently of Congress, within the thirty days following its definitive Constitution. The delegates to the said Convention shall be elected by provinces, in the proportion of one for each 50,000 inhabitants or fraction in excess of 25,000 and in the manner established by law, and no Congressman can be elected to the position of delegate.

In case it is sought to accomplish a re-election constitutionally prohibited or the continuance in office of any officer for a period longer than that for which he was elected, the proposal for revision must be approved by three-fourths of the total number of the Congress, sitting as a single body, and ratified at a referendum by

the favourable vote of two-thirds of the total number of votes of each province.

CZECHOSLOVAKIA

Constitution of the Czechoslovak Republic
June 9, 1948

Part X

Concluding and Transitional Provisions

Section 172

1. The Consitution may be amended and supplemented only by Acts which are designated as constitutional Acts and are enacted under the relevant provisions (Sec. 54, Sub.-Sec. 2).

Section 54 : Sub-Section 2

Enactments whereby the Constitution is amended, a Constitutional Act is adopted, or a decision in respect of a declaration of war is taken, shall be valid if adopted by a three-fifths majority of all the Deputies. The same majority shall be required for the validity of an enactment whereby a conviction is brought in a criminal action against the President of the Republic or against members of the Government.

DENMARK

The Constitution of the Kingdom of Denmark
5th June, 1953

Part X

Art. 88. When the Folketing passes a Bill for the purposes of a new constitutional provision, and the Government wishes to proceed with the matter, writs shall be issued for the election of Members of a new Folketing. If the Bill is passed unamended by the Folketing assembling after the election, the Bill shall within six months after its final passing be submitted to the Electors for approval or rejection by direct voting. Rules for this voting shall be laid down by Statute. If a majority of the

the Electorate has voted in favour of the Bill as passed by the Folketing, and if the Bill receives the Royal Assent it shall form an integral part of the Constitution Act.

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ESTONIAN REPUBLIC

The Constitution of the Estonian Republic

(Adopted by the Constituent Assembly on 15th June, 1920)

Chapter X

The Operation of the Constitution and its Amendment

Art. 87. The right of initiative in the amendment of the Constitutional Law may be exercised by the people in the same manner as the Popular Initiative and by the State Assembly in the ordinary manner.

Art. 88. Amendments of the Constitution proposed by the Popular Initiative, or by the State Assembly, are determined by Popular Referendum.

Art. 89. Every proposal for the amendment of the Constitutional Law must be published for the information of the people at least three months before being put to the vote.

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DOMINICAN REPUBLIC

Constitution of the Dominican Republic
January 10, 1947

Title XVI

Constitutional Reforms

Art. 108. The Constitution cannot be changed except when two-thirds of the members of each Chamber so agree.

Art. 109. The necessity for the reform being declared, Congress by a law which cannot be the subject of objections by the executive power, shall order the meeting of a Revisory Assembly to pass upon the reform. The articles whose reform is proposed shall be inserted in the law of convocation.

Art. 110. The election of members of the Revisory Assembly shall be made by direct vote of the people of the provinces, in the same proportion as for the election of Deputies.

No province shall have less than two representatives. The same qualifications are necessary in order to be elected a member of the Revisory Assembly as for being a Deputy Members of the Assembly shall enjoy the same immunities as the members of the two Chambers.

Art. 111. The Constitution may not be so amended as to change the form of the government, which must always be civil, republican, democratic and representative.

Art. 112. Reform of the Constitution shall be made only in the manner indicated therein, and it shall never be suspended or annulled by any power or authority nor any popular acclamation.

ECUADOR

Constitution of the Republic of Ecuador
December 31, 1946

Third Part
Concerning the Supremacy of the Constitution, Amendment thereof and Complementary Provisions

Art. 190. The Congress in ordinary session may discuss any Bill concerning constitutional amendment following the procedure established for formulating laws.

The Bill, having been approved by both Houses, shall be sent to the President of the Republic so that he may publish the same with his report.

The next regular session of the Congress, after an election of Deputies, shall approve the Bill concerning constitutional amendment, without any modification, or shall disapprove it, in a single debate and by majority of all of its members.

The President of the Republic may not reject the amendatory law and will be obliged to promulgate it.

EL SALVADOR

The Constitution of El Salvador
Scptember 8, 1950

Title XIII—Scope, Application and Amendment of the Constitution

Art. 223. Amendment of this Constitution may be initiated only by a vote of two-thirds of the elected representatives of the Legislative Assembly. In the resolution which is adopted the article or articles to be amended must be indicated and included in the corresponding proposal. The resolution and proposed amendment shall be published in the Diario Official and shall be taken under consideration in the following Legislative Assembly. If the latter ratifies them, a Constituent Assembly shall be convoked to enact the amendments if it so agrees.

It should be noted that the Constitution of August 13, 1886, contained a more elaborate provision to the effect that articles dealing with the prohibition on the re-election of the President, Vice-President and Designates and the duration of the presidential term, be amended ; that the laws of the press, of state of siege of the Republic and of elections might be amended by a Constituent Assembly or by the ordinary Legislature by two-thirds of the vote, but that in the later case the amendments do not have the force of law if they were not ratified by the regular Legislature of the following year, by an equal number of votes ; and that any other method of amendment different from those established in the preceding articles was illegal and null.

THE CONSTITUTION OF THE FRENCH REPUBLIC

Adopted by the National Constituent Assembly
September 28, 1946

Title XI
Revision of the Constitution

Art. 90. Revision of the Constitution shall take place in the following manner :

Revision must be decided upon by a resolution adopted by an absolute majority of the members of the National Assembly.

This resolution shall stipulate the purpose of the revision.

After at least three months, this resolution shall have a second reading under the same rules of procedure as the first, unless the Council of the Republic to which the resolution has been referred by the National Assembly, has adopted the same resolution by an absolute majority.

After this second reading, the National Assembly shall draw up a Bill to revise the Constitution. This Bill shall be submitted to the Parliament and voted by a majority and according to the rules established for any ordinary Act of the Legislature.

It shall be submitted to a referendum unless it has been adopted on second reading by a two-thirds majority of the National Assembly or voted by a three-fifths majority of each of the two Assemblies.

The Bill shall be promulgated as a Constitutional law within eight days after its adoption.

No constitutional revision relating to the existence of the Council of the Republic may be made without the concurrence of this Council, or resort to a referendum.

Art. 91. The Constitutional Committee shall be presided over by the President of the Republic.

It shall include the President of the National Assembly, the President of the Council of the Republic, seven members elected by the National Assembly at the beginning of each annual session by proportional representation of party groups and chosen outside its own membership, and three members elected under the same conditions by the Council of the Republic.

The Constitutional Committee shall determine whether the laws passed by the National Assembly require a revision of the Constitution.

Art. 92. In the period allowed for the promulgation of the law, the Committee shall receive a joint request from the President of the Republic and the President of the Council of the Republic,

the Council having decided by an absolute majority of its members.

The Committee shall examine the law, shall strive to bring about agreement between the National Assembly and the Council of the Republic, and, if it does not succeed, shall decide the matter within five days after it has received the request. This period may be reduced to two days in case of emergency.

The Committee shall be competent to decide on the possibility of revision only of Title I through X of the present Constitution.

Art. 93. A law which, in the opinion of the Committee, implies a revision of the Constitution shall be sent back to the National Assembly for reconsideration.

If the Parliament adheres to its original vote, the law may not be promulgated until the Constitution has been revised according to the procedure set forth in Article 90.

If the law is considered to be in conformity with Title I through X of the present Constitution, it shall be promulgated within the period provided in Article 36, said period being prolonged by the addition of the period provided in Article 92 above.

Art. 94 In the case of occupation of all or part of the metropolitan territory by foreign forces, no procedure of revision may be undertaken or continued.

Art. 95. The republican form of government may not be the subject of any proposal of revision.

GUATEMALA

Constitution of the Republic of Guatemala
11th March, 1945

Title XI

Amendment of the Constitution

Art. 206. The total or partial reform of the Constitution may be decreed only by the vote of at least two-thirds part of the total number of Deputies who compose the Congress, and shall indicate the purpose of the article or articles that may be amended.

In any case in which the total reform of the Constitution or of Articles 2 ; 115, clause 11 ; 131 ; 132 ; 133 ; 135 ; 136 and the present one, or of one or several of them is attempted, it may be decreed only when decided upon by at least two-thirds part of the votes already indicated, in two distinct and consecutive periods of regular sessions of the Congress ; and even then, the Constituent Assembly may not be assembled to take cognizance of the amendment in such case without six years having elapsed, counted from the time it was decreed.

The reform of the Constitution may consist in modifying, suppressing, adding, substituting, or extending articles.

In no case may articles 2 ; 115, clause 11 ; 131 ; 132 ; 133; 135 ; 136 and the present one be declared, suspended or their operation and effectiveness challenged in any manner.

THE CONSTITUTION OF THE REPUBLIC OF ICELAND

June 17, 1944

Chapter VII

Art. 79. Proposals, whether amendmentary or supplementary to this Constitution, may be introduced at regular as well as extraordinary sessions of the Althing. If the proposal is passed by both Houses, the Althing shall be dissolved immediately and a general election be held. If both Houses pass the resolution without amendments, it shall be ratified by the President of the Republic and come into force as a Constitution Act.

If the Althing passes an amendment to the status of the church affairs, according to article 62, it shall be submitted to a plebiscite by secret ballot for acceptance or rejection.

FEDERAL REPUBLIC OF GERMANY

Basic Law for the Federal Republic of Germany

(Promulgated—May 23, 1949 ; Effective—March 15, 1955)

Art. 79. (1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law. "In

the field of international treaties, regarding a peace settlement, preparations for a peace settlement or the alleviation of regulations arising from occupation or connected with the defence of the Federal Republic, it is sufficient in order to clarify that the provisions, as laid down in the Basic Law, are not inconsistent with the conclusion and effectiveness of the treaties, to amend the working to this clarification only".

(2) Such a law shall require the approval of two-thirds of the members of the Bundestag and two-thirds of the votes of the Bundesrat.

(3) An amendment to this Basic Law by which the organisation of the Federation into Laender, the basic cooperation of the Laender in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible.

GREECE

The Constitution of Greece

January 1, 1952

Art. 108. Revision of the entire Constitution is prohibited. The provisions of the present Constitution, which determine the regime as that of a crowned democracy as well as its fundamental provisions, shall under no circumstances be revised.

The non-fundamental provisions of the Constitution may be revised whenever Parliament by two-thirds of all its members calls for a revision by a special Act which shall specifically designate the provisions to be revised and which shall be voted on two occasions removed from each other by at least one month.

Once the revision has been decided upon by Parliament the following Parliament in its first session shall by an absolute majority of the total number of its members decide on the provisions to be revised.

Every revision of non-fundamental provisions of the Constitution which is adopted shall be issued and published in the Official Gazette within ten days from its passage by Parliament and shall be put into effect by a resolution of Parliament.

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CONSTITUTION OF THE REPUBLIC OF HAITI

November 25, 1950

Title X

Amendment of the Constitution

Art. 158. The legislative power, upon the proposal of one of the two Chambers or of the Executive Power, has the right to declare that the constitutional provisions which it designates should be amended.

The declaration should have the approval of two-thirds of each of the two Chambers. This may be done only during the last regular session of a legislature and shall be published immediately throughout the territory.

A legislature is considered to be the term of office of the Deputies.

Art. 159. At the first session of the following legislature, the Chambers shall meet together in National Assembly and shall act upon the proposed amendment.

Art. 160. The National Assembly may not consider this amendment unless at least two-thirds of the members of each of the two Chambers are present.

No declaration may be made, no change may be adopted except by a two-thirds majority of the votes.

Art. 161. Any expression of public opinion intended to modify the Constitution by means of Referendum is strictly forbidden.

POLITICAL CONSTITUTION OF THE REPUBLIC OF HONDURAS

March 28, 1936

Title XIV

The Reforms and Observance of the Constitution and Constitutive Laws

Chapter I

The Reform

Art. 200. The Constitution and the constitutive laws may be reformed partially by a Congress in ordinary session, with two-thirds of the votes of its members, the respective decree having to be ratified by the following ordinary legislature, also by two-thirds of the votes of its members, in order that the reform may go into effect.

The reform of Articles 117, 118 and 200, or of one or more of these three, and the total reform of the Constitution, and the constitutive laws can only be effected by a Constituent Assembly, convoked for this purpose by the National Congress.

THE PROVISIONAL CONSTITUTION OF THE REPUBLIC OF INDONESIA

Promulgated on 15th of August 1950

Chapter VI

Amendments, Transitional and Final Provisions

Section I

Amendments

Art. 140. 1. Every proposal to amend this Constitution shall clearly indicate the proposed amendments.

It shall be announced by law that the proposed amendments are motivated.

2. The proposal to amend the Constitution which shall be announced in such a law shall be presented by the Government with a presidential message to a Body named the Council for the amendment of the Constitution, which consists of the Central

National Committee who are not members of the Provisional House of Representatives.

The Chairman and Deputy Chairman of the Provisional House of Representatives shall become the Chairman and Deputy Chairman of the Council for the amendment of the Constitution.

3. The provisions of Articles 66, 72, 74, 91, 92 and 94 are correspondingly applicable to the Council for the amendment of the Constitution.

4. The Government shall ratify the Bill to amend the Constitution immediately after it has been passed by the Council for the amendment of the Constitution.

Art. 141. 1. Without prejudice to the general provisions with regard to the promulgation and proclamation of laws, changes in the Constitution shall be solemnly promulgated by the Government.

2. The text of the amended Constitution shall be published once more by the Government as soon as the chapters, the sections of each chapter and the articles have been consecutively renumbered and the references changed wherever required.

3. Existing authorities and prevailing regulations and decrees, at the moment an amendment in the Constitution becomes effective, remain in force until replaced by others in accordance with the Constitution, unless their maintenance is in contravention of such new constitutional provisions which do not require any further legislation or executive measures (to become effective).

THE IRAQI CONSTITUTION

March 21, 1925

Part IX

Constitutional Amendments

Art. 118. Parliament may within one year from the coming into force of this law, amend any of the subsidiary matters contained therein or add to them, in order that the objects of

this law may be given effect, provided that Parliament shall agree by a two-thirds majority of votes in both Chambers.

Art. 119. Subject to the provisions of the preceding Article, no amendment whatsoever may be made in the Constitution for a period of five years from the date of the coming into force thereof, nor after the expiration of that period, except in the following manner.

Every amendment must be approved by a two-thirds majority of both the Chambers of Deputies and the Senate. After such amendment has been approved, the Chamber of Deputies shall be dissolved and a new Chamber elected. An amendment which has been approved by the former Chamber shall be submitted again to the new Chamber and Senate. If approved by a two-thirds majority of each Assembly, the amendment shall be submitted to the King for confirmation and promulgation.

CONSTITUTION OF IRELAND

December 29, 1939

Amendment of the Constitution

Art. 46. 1. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.

2. Every proposal for an amendment of this Constitution shall be initiated in Dail Eireann as a Bill and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum

3. Every such Bill shall be expressed to be "An Act to amend the Constitution".

4. A Bill containing a proposal or proposals for the amendment of this Constitution shall not contain any other proposal.

5. A Bill containing a proposal for the amendment of this Constitution shall be signed by the President forthwith upon his being satisfied that the provisions of this Article have been com-

plied with in respect thereof and that such proposal has been duly approved by the people in accordance with the provisions of Section I of Article 47 of this Constitution and shall be duly promulgated by the President as a law.

CONSTITUTION OF THE ITALIAN REPUBLIC

(Approved by the Constituent Assembly on December 22, 1947, and effective—January 1, 1948)

Section II

Revision of the Constitution. Constitutional Legislation

Art. 138. Laws for the revision of the Constitution and other constitutional laws are adopted by each of the Chambers in two successive deliberations with an interval of not less than three months, and are approved by absolute majority of the members of each Chamber on the second vote.

Such laws are submitted to popular referendum whenever within three months of their publication one-fifth of the members of a Chamber or five hundred thousand voters or five regional councils so request. A law which is the subject of a referendum is not promulgated unless approved by the majority of the valid votes.

A referendum does not take place, if the law has been approved by each Chamber by a two-thirds majority of its members on the second vote.

Art. 139. The Republican form of government cannot be the subject of constitutional revision.

THE CONSTITUTION OF JAPAN

Promulgated—November 3, 1946

Chapter IX

Amendments

Art. 96. Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of

all the members of each House, and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify.

Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.

THE CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN

January 1, 1952

Art. 126. (i) The rules described in this Constitution concerning the proposals of laws apply to any proposal for the amendment of this Constitution. Such revision may be decided by two-thirds majority of members of both the Senate and House of Representatives separately. In the case of a joint session of the Senate and House in accordance with Article 92 of this Constitution, a revision may be decided by a two-thirds majority of members of both, provided that in each case the amendment shall not come into force unless approved by the King.

(ii) No amendment to the Constitution concerning the rights of the King and his heirs shall be passed during a period of regency.

THE CONSTITUTION OF THE REPUBLIC OF KOREA

July 12, 1948

Chapter IX

Amendment of the Constitution

Art. 98. A motion to amend the Constitution shall be introduced either by the President or by one-third or more of the members of the National Assembly duly elected and seated.

Proposed amendments to the Constitution shall be announced by the President to the public.

The period for an announcement as prescribed in the foregoing paragraph shall not be less than 30 days.

The decision on the amendment to the Constitution requires the concurrence of more than two-thirds of the members of the National Assembly duly elected and seated.

When an amendment to the Constitution has been adopted the President shall promulgate it immediately.

CONSTITUTION OF THE KINGDOM OF LAOS

May 11, 1947

Title VIII – Final Provisions

Art. 43. Revision of the present Constitution shall take place in the following manner :

A resolution of revision may emanate from the Council of the King, from the Council of Ministers or from an absolute majority of members of the Assembly.

Resolutions of revision must be accompanied by drafts of the revision or amendment proposed.

The National Assembly and the Council of the King shall meet solemnly as a Congress, upon the convocation of the King, in order to examine the proposed revision or amendment. Such proposals must be approved by a majority of two-thirds of the members of the Congress present in order to become effective.

The provisions relating to the monarchic, unitary and indivisible form of the State, the representative character of the regime, and the principles of liberty and equality guaranteed by the present Constitution may not be subject of any amendment.

CONSTITUTION OF LEBANON

May 23, 1926

Title III

(b) Revision of the Constitution

Art. 76. The Constitution may be revised upon the initiative of the President of the Republic.

In this case the government will bring before the Assembly a draft of constitutional law.

Art. 77. The Constitution may likewise be revised upon the initiative of the Chamber of Deputies. This right is exercised in the following manner :

The Chamber may, in the course of an ordinary session and upon the proposal of at least ten of its members, by a two-thirds majority of the members of which it is legally composed, pass a resolution that the Constitution be revised. The articles and the points referred to in the resolution must be specifically enumerated and detailed.

The President of the Chamber transmits the resolution to the government and asks it to prepare a draft of constitutional law.

If the government approves the resolution of the Assembly, it must prepare the draft of law relating to it and bring it before the assembly within a period of four months ; if the government does not agree with the Assembly, it returns for reconsideration the resolution which the latter passed. If the assembly maintains its resolutions by a three-fourths majority of the members of which it is legally composed, the President of the Republic is permitted either to comply with the desire of the Assembly or to issue a decree of dissolution, and to proceed with new elections within a period of three months.

If the new Assembly insists upon the necessity of the revision, the government is obliged to acquiesce in the resolution of the Assembly and to introduce the Bill within a period of four months.

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CONSTITUTION OF LIBYA

October 7, 1951

Chapter XI

General Provisions

Art. 196. The King or either of the two Chambers may propose the revision of this Constitution either by the amendment or deletion of one or more of its provisions or by the insertion of additional provisions.

Art. 197 No proposal may be made to review the provisions relating to the monarchical form of Government, the order of succession to the Throne, the representative form of government or the principles of liberty and equality guaranteed by the Constitution.

Art. 198. For the purpose of reviewing this Constitution, each of the two Chambers shall, by an absolute majority of all its members, adopt a resolution stating the necessity for the review and prescribing the subject thereof. The two Chambers shall, after discussing the matters subject to review adopt their decisions in respect thereof. Discussion and voting in each of the two Chambers shall not take place unless two-thirds of its members are present. The resolutions to be valid must be adopted by a majority of two-thirds of the members present in each of the two Chambers and must be sanctioned by the King.

Art. 199. In the event of a review of the provisions concerning the federal form of government, such review must be approved, in addition to the provisions laid down in the preceding article, by all the Legislative Councils of the Provinces. Such approval shall be expressed by a resolution taken in this respect by the Legislative Council of each province before the review is presented to the King for his sanction.

THE CONSTITUTION OF THE GRAND DUCHY OF LUXEMBOURG

October 17, 1868

Chapter X

General Provisions

Art. 114. The legislative power has the right to declare the necessity to proceed to the revision of such constitutional provision as it shall designate.

After this declaration, the Chamber is dissolved by full right.

A new one shall be convoked, in conformity with Article 74 of the present Constitution.

This Chamber will act, in common accord with the Grand Duke, on the points submitted for revision.

In this case, the Chamber may not deliberate unless three-quarters at least of its members are present, and no change shall be adopted without at least two-thirds of the votes.

Art. 115. No change of the Constitution may be made during a regency.

POLITICAL CONSTITUTION OF THE UNITED STATES OF MEXICO

January 31, 1917

Title VIII

Regarding Amendments to the Constitution

Art. 135. The present Constitution may be added to or amended. No amendment or addition shall become part of the Constitution until agreed to by Congress by a two-thirds votes of the members present, and approved by a majority of the State legislatures. The votes of the legislatures shall be counted by Congress, which shall likewise make the declaration that the amendments or additions have been approved.

CONSTITUTION OF THE MONGOL PEOPLES' REPUBLIC

June 30, 1940

Chapter XIII

Procedure for Amending the Constitution of the Mongol Peoples' Republic

Art. 95. The Constitution of the Mongol Peoples' Republic is amended only by the decision of the Concat Peoples' Khural, adopted by not less than a two-thirds majority vote.

CONSTITUTION OF THE KINGDOM OF NETHERLANDS

Adopted—24th August 1815 ; Reissued by Decree No. H 28 of the 22nd January, 1947

Thirteenth Chapter

Of Changes

Art. 202. Every Bill for the alteration of the Constitution shall explicitly indicate the proposed change. It shall be declared by law that grounds exist for considering the Bill in the form in which that law fixes it.

Art. 203. After the promulgation of this law, the Chambers shall be dissolved. The new Chambers shall consider that proposal and cannot pass the alteration proposed to them in conformity with the aforesaid law otherwise than by two-thirds of the votes given.

Art. 204. The changes in the Constitution fixed by the King and States-General shall be solemnly promulgated and added to the Constitution.

Art. 205. The text of the revised Constitution shall be promulgated by the King after, inso far as necessary, the chapters, the sections of each chapter, and the articles have been numbered consecutively and references have been altered.

Art. 206. The authorities, binding laws, rules and decrees existing at the moment of promulgation of a change in the Constitution shall continue to be maintained until they have been replaced by others in pursuance of the Constitution.

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CONSTITUTION OF THE REPUBLIC OF NICARAGUA

November 1, 1950

Title XV

Sole Chapter

Supremacy of the Constitution and its Amendment

Art. 326. The Constitution and the constitutional Laws may be wholly or partially amended.

Art. 327. Partial amendment shall be subject to the follow ing procedure.

(1) The initiative of an amendment of one or more articles must be submitted, with an expression of reasons, to the Chamber of Deputies in an ordinary session, supported by the signatures of at least ten or more Deputies ;

(2) After being read twice with an interval of three days, the Chamber shall decide, by an absolute majority of votes, whether or not the proposed amendment shall be considered

(3) If the vote is affirmative, the presiding officials shall refer it to a Special Committee composed of five Representatives two of whom are members of the minority party. This Committee must submit its report within eight days ;

(4) The report and the proposal shall be discussed jointly in two debates in accordance with regular rules ;

(5) If the Chamber, in approving or rejecting the report, supports the proposed amendment, it shall be sent to the Senate which in acting upon it, shall follow the same procedure as in the Chamber of Deputies.

(6) If the Senate also approves the amendment, it shall invite the Chamber of Deputies to form a Congress in United Chambers ;

(7) Congress in United Chambers shall appoint a Special Committee from among its members to draft the proposed law of amendment within a period of eight days. The Drafting Committee shall consist of five Deputies and the Senators, three of whom shall belong to the minority party. The proposed law of amendment shall be discussed in two debates and its approval requires an absolute majority of votes.

(8) The Bill thus approved shall be sent to the Executive Power. The President of the Republic, when the next legislative session is inaugurated, shall return it to Congress with an explanation of reasons, either accepting or rejecting it or proposing amendments.

(9) If the Bill is accepted, Congress shall send it to the Executive Power for publication. In the event of rejection or

amendment, the Bill shall be again discussed in two debates by Congress in United Chambers, during their first sessions.

(10) The bill, as newly approved by an absolute majority of Congress in United Chambers, shall be sent to the Executive Power for publication.

Art. 328. Total amendment of the Constitution may only take place ten years after it has been in force, by a Constituent Assembly, when the National Congress has declared that such amendment is in order, following the procedure outlined in numerals (1) to (6), inclusive of the preceding article.

The National Congress is dissolved by the mere fact of deciding in favour of amendment.

THE CONSTITUTION OF NORWAY

May 17, 1814 with amendments

Art. 112 If experience should show that any part of this Constitution of the Kingdom of Norway requires to be altered, the proposition therefor shall be submitted to the first or second ordinary Storthing after a new election, and be published in print. But it is only the first or second ordinary Storthing after the next election following which shall have power to decide whether the proposed alteration should be made or not. Such an alteration, however, must never be inconsistent with the principles of this Constitution, but must only bear on such modifications of particular provisions as do not change the spirit of this Constitution ; and two-thirds of the Storthing must agree to such an alteration.

An amendment of the Constitution adopted in the manner aforesaid shall be signed by the President and the Secretary of the Storthing, and be sent to the King for public notification in print, as forming an integral part of the Constitution of the Kingdom of Norway.

CONSTITUTION OF THE REPUBLIC OF PANAMA

March 1, 1946

Title XV

Constitutional Amendment

Art. 256. This Constitution may be amended, only by a legislative Act issued by the National Assembly in regular session, which Act should be published and transmitted by the Executive to the Assembly in the first regular sessions following the elections for the renovation of the Assembly, so that it may be debated again and approved by the absolute majority of the Deputies of which the Assembly is composed.

The Executive may object to the amendment only when he receives it for its promulgation after the debates of the second regular Assembly.

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CONSTITUTION OF THE REPUBLIC OF PARAGUAY

July 10, 1940

Art. 94. No total amendment of this Constitution may be made until ten years after its promulgation. The need of amendment must be declared by the National Assembly with two-thirds of the votes of its members.

With the same number of votes the Assembly may, however, declare the need of introducing partial reforms suggested by experience, and if it does so, will submit them to a plebiscite which should coincide with the elections for the renewal of the present presidential term.

The present presidential term will end on August 15, 1943.

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CONSTITUTION OF THE REPUBLIC OF PERU

April 9, 1933

Title XV

Modification of the Constitution

Art. 236. Any constitutional modification must be approved

by the Chambers in ordinary legislature and be ratified by both Chambers in another ordinary legislature. The approval and ratification require the majority of votes of the legal number of members in each of the Chambers.

The initiative is vested in the Deputies and Senators and in the President of the Republic with the approval of the Council of Ministers.

CONSTITUTION OF THE PHILIPPINES

February 8, 1935, as amended

Article XV

Amendments

Sec. 1. The Congress in joint session assembled by a vote of three-fourths of all the members of the Senate and of the House of Representatives voting separately may propose amendments to this Constitution or call to convention for that purpose. Such amendments shall be valid as part of this Constitution when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

CONSTITUTION OF THE POLISH PEOPLES' REPUBLIC

July 22, 1952

Chapter X

Procedure for Amending the Constitution

Art. 91. The Constitution may be amended only by an Act passed by the Seym of the Polish Peoples' Republic by a majority of not less than two-thirds of the votes, not less than half the total number of Deputies being present.

POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC

August 1, 1935 as amended

Supplementary Provisions

(a) Revision of the Constitution

Art. 176. The Constitution may be revised every ten years, counted from the date of the last law of revision ; and the National Assembly whose life includes the last year of the decade or the National Assemblies which follow the tenth year, shall for this purpose, enjoy constituent powers until the law of revision is published.

1. Constitutional revision may be anticipated by five years if, at the beginning of the legislative session corresponding to the last year of the five-year term, it is so decided by two-thirds of the Deputies in effective exercise of their mandate.

In this case the ten-year period shall likewise be counted from the date of the law of revision then voted.

2. Once a proposal or draft Bill for constitutional revision has been presented, others may only be presented, within twenty days from the date of the first presentation.

3. Proposals or draft Bills for constitutional revision shall not be accepted for consideration unless the proposed amendments are clearly defined.

4. As soon as the law of revision has been published, the constituent powers of the National Assembly shall cease.

Art. 177. Notwithstanding the provisions of the preceding article, should public interest urgently demand it, the Head of the State, after consulting the Council of State, may by a decree signed by all the Ministers :

(I) determine that the National Assembly to be elected shall assume constituent powers and revise the Constitution in such parts as specified in the relative decree ;

(II) submit to a national plebiscite the alterations of the Constitution referring to the legislature or its instruments ; such approved alterations shall enter into effect as soon as the final results of the plebiscite are published in the Diario do Governo.

CONSTITUTION OF THE RUMANIAN PEOPLE'S REPUBLIC

September 24, 1952

Chapter X

Procedure for Amending the Constitution of the Rumanian People's Republic

Art. 105. The Constitution of the Rumanian People's Republic may be amended only by a law adopted by the Grand National Assembly.

The Bill on amending the Constitution is considered adopted if not less than two-thirds of the total number of members of the Grand National Assembly of the Rumanian People's Republic have voted for it.

CONSTITUTION OF THE REPUBLIC OF LIBERIA

July 26, 1847

Miscellaneous Provisions

Art. 5 : Section 17 :

This Constitution may be altered whenever two-thirds of both branches of the Legislature shall deem it necessary ; in which cases alterations or amendments shall first be considered and approved by the Legislature by the concurrence of two-thirds of the members of each branch and afterwards by them submitted to the people, adopted by two-thirds of all electors at the next quadrennial meeting for the election of Senators and Representatives.

FEDERAL CONSTITUTION OF THE SWISS CONFEDERATION

May 29, 1874, as amended and revised

Chapter III

The Revision of the Federal Constitution

Art. 118. The federal Constitution may at any time be wholly or partially revised.

Art. 119. Total revision shall be effected in the forms laid down in respect of federal legislation.

Art. 120. When either division of the Federal Assembly decides in favour of a total revision of the Federal Constitution, and the other division does not agree, or when fifty thousand Swiss voters demand a total revision, the question whether the Federal Constitution ought to be revised is in either case submitted to the Swiss nation, which votes in the affirmative or negative.

If in either case a majority of the Swiss nation who vote pronounce in the affirmative, the two Councils shall be renewed for the purpose of undertaking the revision.

Art. 121. A partial revision may be effected either by means of the popular initiative, or in the forms laid down in respect of federal legislation.

The popular initiative consists of a demand by fifty thousand Swiss voters for the adoption of a new Constitutional article or for the repeal or modification of certain articles of the Constitution already in force.

If by means of the initiative several different provisions are submitted for revision of or for addition to the Federal Constitution, each of them must form the subject of a separate initiative demand.

The initiative demand may take the form of a proposal couched in general terms, or of a Bill complete in all details.

When the demand is couched in general terms, the federal Chambers, if they approve thereof, will proceed to undertake the partial revision in the sense indicated, and will submit draft for acceptance or rejection by the people and the cantons. If, on the contrary, they do not approve the demand, the question of partial revision shall be submitted to the vote of the people ; if a majority of the Swiss citizens taking part in the vote pronounce in the affirmative, the Federal Assembly will proceed to undertake the revision in conformity with the popular decision.

When a demand is present in the form of a bill complete in all details, and the Federal Assembly approves thereof, the Bill

shall be submitted for acceptance or rejection by the people and the cantons. If the Federal Assembly is not in agreement, it may draw up a separate Bill or recommend to the people the rejection of the Bill proposed, and submit to the vote its counter-draft or its proposal for rejection at the same time as the Bill presented by popular initiative.

Art. 122. Federal legislation shall determine the formalities to be observed in regard to popular initiative and to referenda concerning the revision of the federal Constitution.

Art. 123. The revised federal Constitution, or the revised part thereof, shall enter into force when it has been accepted by the majority of the Swiss citizens taking part in the vote thereon and by the majority of the States.

In reckoning a majority of the States, the vote of a half-canton shall be counted as half a vote.

The result of the popular vote in each canton shall be regarded as the vote of the State.

THE CONSTITUTION OF THE KINGDOM OF THE SERBS, CROATS AND SLOVENES

(Adopted on June 28, 1921)

Part XII

Amendment of the Constitution

Art. 125. The National Assembly shall decide in concert with the King upon amendments of the Constitution.

Art. 126. A proposal to introduce amendments of, or additions to, the Constitution may be made only by the King or the National Assembly.

Any such proposal must expressly designate all the provisions in the Constitution which are to be amended or supplemented.

If the proposal is initiated by the King, he shall communicate it to the National Assembly ; the National Assembly shall thereupon be dissolved forthwith and a new Assembly convened within a period not exceeding four months.

If the proposal is initiated by the National Assembly, it shall be considered in the manner prescribed for resolutions upon Bills, and shall require a majority of three-fifths of the total number of members of the Assembly for its adoption.

After the proposal has been adopted, the National Assembly shall be dissolved ; a new Assembly shall be convened within a period not exceeding four months from the date of the adoption of the proposal.

In either case, the National Assembly may consider only the amendments of or additions to the Constitution contained in the proposal upon the basis of which it was convened.

The decision of the National Assembly shall be determined by a majority of one more than half of the total number of its members.

THE CONSTITUTION OF SYRIA

September 5, 1950

Chapter IX

Amendment of the Constitution

Art. 155. (1) The President of the Republic, with the assent of the Council of Ministers, as well as the Deputies may request the amendment of one or more of the Articles of the Constitution provided :

(a) The request for amendment shall specify the Articles which it is desired to amend and the reasons for such amendment.

(b) If the request is submitted by Deputies, one-third or more of their total number must sign the application.

(c) The Chamber shall discuss the request for amendment which shall be adopted only when an absolute majority of the total number of Deputies vote in its favour. If rejected, such a rejection shall be considered final. A request to amend the same Articles again may not be presented within one year.

(d) If an absolute majority of the total number of Deputies

approve of the request for amendment, such an approval shall be considered as a motion for amendment.

(e) Six months after the adoption of a motion of amendment, the Chamber of Deputies shall discuss the amendment proposed. The amendment shall be adopted and become effective if two-thirds of the total number of Deputies vote for it.

2. The Deputies shall take a new oath of allegiance to the amended Constitution within two weeks of its adoption.

TANGANYIKA

An Act to Declare the Constitution of Tanganyika, November 23, 1962

Part IV

The Legislature

(b) Legislation and Procedure in National Assembly

Alteration of certain laws

Art. 35. (1) Parliament may alter any of the provisions of this Constitution, but a Bill for an Act to alter any provision of this Constitution or any of the provisions of the laws set out in the Schedule to this Constitution shall not be passed by the National Assembly unless it is supported by the votes of not less than two-thirds of all the members of the Assembly at not less than two of its stages in the Assembly.

(2) In this section references to the alteration of any provision of this Constitution or of a law set out in the Schedule include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

THE CONSTITUTION OF THE THAI KINGDOM

August 3, 1952

Chapter VIII

Amendment of the Constitution

Section 111. This Constitution may only be amended under the following conditions :

1. A motion for amendment must either be introduced by the Council of Ministers or members of the Assembly of the People's Representatives numbering not less than one-fourth of the total membership.

2. The Assembly of the People's Representatives shall examine the motion for amendment in three readings.

3. At the first reading voting for the acceptance of the amendment in principle shall be by roll call and carried by a majority of not less than two-thirds of the total membership.

4. At the second reading where the amendment is examined section by section, voting shall be decided by a simple majority.

5. After the conclusion of the second reading, there shall be an intervening period of fifteen days, after which the Assembly of the People's Representatives shall continue with its third reading.

6. Voting for the third and last reading shall be by roll call and the amendment shall be adopted by a majority vote of not less than two-thirds of the total membership.

7. After the resolutions have been passed in compliance with the foregoing provisions, the amendment shall be submitted to the King and the provisions of Section 71 and Section 72 shall apply *mutatis mutandis*.

THE TURKISH CONSTITUTION

January 10, 1945

Provisons Relating to the Constitution

Art. 102. Amendments of any of the provisions of the present Constitution can be made only under the following conditions :

The motion for amendment must be signed by at least one-third of all the members of the Assembly.

The amendment must be supported by the vote of a majority numbering two-thirds of the total members of the Assembly

An amendment or a modification of Article 1 of the present law, stating that the form of government of the country is a Republic, cannot even be proposed under any circumstances or in any form whatsoever.

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CONSTITUTION (BASIC LAW) OF THE UKRAINIAN SOVIET SOCIALIST REPUBLIC

January 30, 1937 (as amended in 1947)

Section IX

Method of Amendment of the Constitution

Art. 127. Amendment of the Constitution of the Ukrainian Soviet Socialist Republic is made only upon a decision of the Supreme Soviet of the UKSSR, when approved by votes of at least a two-thirds majority of the members of the Supreme Soviet.

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AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA

20th September 1909

Part X

Amendment of Act

Art. 152. Parliament may by law repeal or alter any of the provisions of this Act ; provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered : And provided further that no repeal or alteration of the provisions contained in this section, or in sections thirty-three and thirty-four (until the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections thirty-five and one hundred and thirty-seven, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at

such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

CONSTITUTION (FUNDAMENTAL LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS

December 5, 1936 as amended

Chapter XIII

Procedure for Amending the Constitution

Art. 146. The Constitution of the U.S.S.R. may be amended only by decision of the Supreme Soviet of the U.S.S.R. adopted by a majority of not less than two-thirds of the votes in each of its Chambers.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

Signed September 17, 1787, effective June 21, 1788

Article V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress ; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the first Article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

CONSTITUTION OF THE ORIENTAL REPUBLIC OF URUGUAY

October 26, 1951

Chapter III

Art. 331. The present Constitution may be amended, in whole or in part, in accordance with the following procedures :

(a) Upon the intiative of ten per cent of the citizens inscribed in the National Civil Register, by presenting a detailed proposal which shall be referred to the President of the General Assembly, to be submitted for popular decision at the next election.

The General Assembly, meeting in joint session, may make substitute proposal which shall be submitted to plebiscitary decision together with the popular initiative.

(b) By proposal of amendments approved by two-fifths of the full membership of the General Assembly, present to the President thereof, and submitted to plebiscite at the next ensuing election.

For an affirmative result in the methods outlined in paragraphs (a) and (b) a "yes" vote of an absolute majority of the citizens participating in the elections shall be required and this majority must represent at least thirty-five per cent of all persons inscribed in the National Civil Register.

(c) The Senators, Representatives, and the Executive Power may present proposed amendments which must be approved by an absolute majority of the full membership of the General Assembly.

A proposal which is rejected may not be renewed until the succeeding legislative period, and the same formalities must be observed.

Upon the approval of a proposal and its promulgation by the President of the General Assembly, the Executive Power, within nineteen days thereafter, shall call for the election of a National Constituent Convention, which shall consider and decide upon approved proposals for amendment as well as upon any other proposals that may be presented to the Convention. The number of members of the Convention shall be double the number of

legislators. Twice as many alternates shall be elected at the same time. The conditions for eligibility and the immunities and incompatibilities shall be the same as for Representatives.

The election by departmental lists shall be governed by the system of integral proportional representation and in accordance with laws in force for the election of Representatives. The Convention shall meet within one year from the date of promulgation of the proposal of amendment.

The decisions of the Convention must be taken by an absolute majority of the whole number of members of the Convention and the work of the Convention must be terminated within one year from the date of its commencement. The proposal or proposals drawn up by the Convention shall be communicated to the Executive Power for immediate and full publication.

The proposal or proposals drawn up by the Convention must be ratified by the body electorate convoked for the purpose by the Executive Power, on the date to be fixed by the National Constituent Convention.

Voting shall be by "yes" or "no" and if there are several texts of amendment, it shall be separate for each of them. For this purpose the Constituent Convention shall group together those amendments which by their nature require that they be voted on as a unit. One third of the members of the Convention may require separate voting on one or several texts. An amendment or amendments must be approved by a majority of votes, which shall not be less than thirty-five per cent of the citizens inscribed in the National Civic Register.

In the case contemplated by paragraphs (a) and (b), there shall be submitted for ratification by plebiscite at the same time at the next elections only those proposals which have been presented at least six months before the date of such elections, or in the first of these cases, three months before, for substitute proposals approved by the General Assembly. Proposals presented after the periods mentioned shall be submitted to plebiscite at the time of the subsequent elections.

(d) The Constitution may be amended also, by constitutional laws which shall require for their sanction two-thirds of the full

membership of each Chamber in the same legislative period. Constitutional laws may not be voted by the Executive Power and shall take effect as soon as the electorate specially convoked on the date specified in such laws shall have expressed their approval by an absolute majority of the votes cast and they shall be promulgated by the President of the General Assembly.

(e) If the Convocation of the electorate for ratification of amendment in the cases contemplated in paragraphs (a), (b), (c) and (d) coincides with any election of members of the organs of the State, the citizens must express their will on the constitutional amendments on ballots separate and apart from the election lists. Whenever the amendments submitted to plebiscite relate to election to elective offices, the voting for such offices shall be both by the system proposed and by the existing system, and the decision of the plebiscite shall be final.

CONSTITUTION OF VENEZUELA

April 11, 1953

Title VI

Amendments to the Constitution

Art. 140. This Constitution may be amended on the initiative of either Legislative Chamber of the Legislative Assemblies.

Art. 141. When the initiative originates in one of the Legislative Chambers, the amendment must be proposed by at least one-fourth of its total membership. If the amendment is found to be duly presented, the Legislative Chambers shall then discuss it according to the procedure established in this Constitution for the enactment of laws. At the conclusion of this procedure the President of the National Congress shall submit the amendment to the Legislative Assemblies for ratification, which shall be considered valid when it is approved by at least two-thirds of the Legislative Assemblies by an absolute majority vote of the members of each Legislative Assembly.

When the initiative originates in the Legislative Assemblies,

Assemblies have considered the amendment a desirable one, by means of resolutions approved in each Assembly by an absolute majority of the total membership. When declared duly presented, the amendment will then be considered according to the procedure provided in the first part of this article.

No amendments shall be made except as to points having the aforesaid majority of the Legislative Assemblies.

Art. 141. The initiative vote of the Legislative Assemblies shall be transmitted to the National Congress for final scrutiny, and if it proves that the amendment has been duly ratified by the Legislative Assemblies the amended Constitution shall enter into force on the day of its publication in the Officia Gazette of the Republic of Venezuela.

CONSTITUTION OF THE F EDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

(Fundamental Law)—January 13, 1953

II—Federal Organs of State Authority

A. Federal People's Authority

1. Rights of the Assembly

Art. 23. A proposal to amend the Constitution may be submitted by not less than twenty members of the House, the Council of Nationalities, as well as by the Federal Executive Council.

The Assembly previously decides in each Council by a majority of votes whether a proposal to amend the Constitution will be considered.

An amendment of the Constitution is adopted if three fifths of the members of each Council vote in avour of it.

THE CONSTITUTION OF THE POLISH REPUBLIC

(Law of 17th March, 1921)

Chapter VI

General Provisions

Art. 125. The Constitution may be revised only if one-half at least of the total number of Deputies fixed by law and the same

proportion of the members of the Senate are present, and by a two-thirds majority vote.

A motion calling for the revision of the Constitution must be signed by one-fourth of the number of Deputies fixed by law, and at least fifteen days' notice must be given of such a motion.

The second Diet elected in accordance with this Constitution may decide upon a revision of the Constitution by a three-fifths majority vote, provided that at least one-half of the number of Deputies fixed by law are present.

Every twenty-five years after the adoption of this Constitution, the Constitution may be revised in accordance with the decision of a simple majority of the Diet and Senate sitting jointly as the National Assembly.

CONSTITUTION OF THE KINGDOM OF SWEDEN

(Established by His Majesty and the Estates of the Realm, Stockholm, 6th June, 1809)

(with subsequen t amendments up to 1922)

Art. 81. This Constitution and the other fundamental laws shall not be altered or repealed except by decision of the King and of two regular sessions of the Rikstag.

The decision of the Rikstag upon a proposal made by the King with reference to a Fundamental Law shall be communicated to him in the manner prescribed by the Rikstag Law. If the Rikstag shall adopt such a proposal made within its own body, its decision thereon shall be submitted to the King. In the latter case, the King, before the adjournment of the Rikstag, shall take the advice of the Council of State in full session and shall, in the Hall of State, inform the Rikstag of his consent or of his reasons for not approving its resolution.

Art. 82. Amendments to the fundamental laws adopted by the Rikstag and approved by the King, or proposed by the King

and adopted by the Rikstag, in the prescribed manner, shall have force as fundamental laws.

ACT TO CONSTITUTE OF REPUBLIC OF SOUTH AFRICA AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO

Part IX : General

(Assented to : 24th April, 1961)

Amendment of Act

Art. 118. (1) Parliament may by law repeal or alter any of the provisions of this Act : provided that no repeal or alteration of the provisions contained in this section or in section one hundred and eight shall be valid unless the Bill embodying such repeal or alteration is passed by the Senate and the House of Assembly sitting together, and at the third reading is agreed to by not less than two-thirds of the total number of members of the Senate and the House of Assembly.

(2) A Bill passed as aforesaid at such joint sitting shall be taken to have been duly passed by the Senate and by the House of Assembly.

(Section 108 relates to equality of official languages.)

Art. 108. (1) English and Afrikaans shall be the official languages of the Republic, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges.

(2) All records, journals and proceedings of Parliament shall be kept in both the official languages, and all Bills, Acts and notices of general public importance or interest issued by the Government of the Republic shall be in both the official

CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF VIETNAM, 1960

Chapter X

Amendments of the Constitution

Art. 112. Only the National Assembly has power to revise the Constitution. Amendments to this Constitution require a two-thirds majority of all deputies to the National Assembly.

CONSTITUTION OF THE ARGENTINE REPUBLIC

March 16, 1949

Part First

Chapter I

Fundamental Principles

Art. 21. The Constitution may be amended entirely or in any of its parts. The necessity for a reform must be declared by Congress with the vote of two thirds of its members present ; but it shall not be effected except by a Convention called for the purpose.

A special law shall establish the punishment for those who in any way advocate or propagate methods or systems proposing the use of violence, to suppress or change the Constitution or any of its basic principles and those who organise, establish, direct or belong to an association or entity which has as its visible or concealed purpose the accomplishment of such ends.

CONSTITUTION OF EGYPT

(Royal Rescript No. 42 of April 30, 1923)

Title VI

General Arrangements

Art. 156. The King, as also the two Chambers, may propose the revision of the present Constitution, either by the modification

or abolition of one or of several of its stipulations, or by the addition of new ones.

In any case, however, the stipulations relating to the representative and Parliamentary form, to the order of succession to the Throne, and to the principles of liberty and equality guaranteed by the present Constitution may not be made the subject of a proposal for revision.

Art. 157. To revise the Constitution, each of the Chambers, by a resolution passed by an absolute majority of all the members, declares the necessity for the revision and specifies the object.

Once this resolution has been sanctioned by the King, the two Chambers, in agreement with him, pass enactments on the points to be revised. Each of the two Chambers can only pass resolutions if two-thirds of the members are present, and if the resolutions are passed by a majority of two-thirds of the votes.

Art. 158. No revision of the Constitution on the subject of the rights of the Crown may take place during a regency.

THE FEDERATION OF MALAYA CONSTITUTION

(Came into force on 31st August, 1957)

Part XIII—General and Miscellaneous

Art. 159. (1) Subject to the following provisions of this Article, the provisions of this Constitution may be amended by federal law.

(2) No amendments to this Constitution shall be made before Parliament is constituted in accordance with Part IV, except such as the Legislative Council deem necessary to remove any difficulties in the transition from the constitutional arrangements in operation immediately before Merdeka Day to those provided for by this Constitution ; but any law made in pursuance of this clause shall, unless sooner repealed, cease to have effect at the expiration of a period of twelve months beginning with the day on which Parliament first meets.

(3) A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this

clause) shall not be passed in either House of the Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members of that House.

(4) The following amendments are excepted from the provisions of clause (3), that is to say—(a) any amendment to the Second, Sixth or Seventh Schedule ; (b) any amendment incidental to or consequential on the exercise of any power to make law conferred on the Parliament by any provision of this Constitution other than Articles 74 and 76 ; and (c) any amendment incidental to or consequential on the repeal of a law made under clause (2) or consequential on an amendment made under paragraph (a).

(5) A law making an amendment to Article 38, 70, 81(1) or 153 shall not be passed without the consent of the Conference of Rulers.

(6) In this Article "amendment" includes addition and repeal.

INDONESIA

The Constitution of the Republic of Indonesia, 1945

Amendments of the Constitution

Art. 37. 1. To amend the Constitution, the attendance of at least two-thirds of the total number of members of the People's Congress shall be required.

2. Decisions shall be taken by a majority of at least two-thirds of the total number of members present.

THE REPUBLIC OF KOREA

The Constitution of the Republic of Korea

Chapter V
Amendments to the Constitution

Art. 119. (1) A motion to amend the Constitution shall be introduced either by a one-third or more of the members of the National Assembly duly elected and seated, or by the concurrence of five hundred thousands or more of the voters eligible for the election of the members of the National Assembly.

(2) Proposed amendments to the Constitution shall be announced by the President to the public for more than thirty days.

Art. 120. (1) The National Assembly shall decide upon proposed amendments to the Constitution within sixty days of its public announcement.

(2) The decision on a proposed amendment to the Constitution shall require the concurrence of a two-thirds or more of the members of the National Assembly duly elected and seated.

Art. 121. (1) After an amendment to the Constitution has been adopted, it shall be submitted to a national referendum within sixty days and shall receive the affirmative votes of more than one half of votes cast by more than one half of all voters eligible to vote for the election of the members of the National Assembly.

(2) When the proposed amendment to the Constitution has received the affirmative votes referred to in the preceding paragraph, the Constitution shall be thus amended, and the President shall promulgate the amendment immediately.

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THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Constitution of the Democratic People's Republic of Korea
(As adopted on September 8, 1948)

Chapter X
Procedure for Amending the Constitution

Art. 104. The Constitution of the D.P.R.K. may be amended

only by the Supreme People's Assembly. Adoption of the draft laws for amendments to the Constitution requires the approval by a majority of not less than two-thirds of the Deputies of the Supreme People's Assembly.

KUWAIT

The Constitution of the State of Kuwait

Part V
General and Transitional Provisions

Art. 174. Either the Amir or one-third of the members of the National Assembly shall have the right to propose the revision of this Constitution by amending or deleting one or more of its provisions or by adding new provisions.

If the Amir and the majority of the members constituting the National Assembly approve the principle of revision and its subject-matter, the Assembly shall debate the Bill article by article. Approval by a two-thirds majority vote of the members constituting the Assembly shall be required for the Bill to be passed. The revision shall come into force only after being sanctioned and promulgated by the Amir regardless of the provisions of articles 65 and 66 of this Constitution.

If the principle of revision or its subject-matter is rejected, it shall not be presented again before the lapse of one year from the rejection.

No amendment to this Constitution may be proposed before the lapse of five years from its coming into force.

Art. 175. The provisions relating to the Amiri System in Kuwait and the principles of liberty and equality, provided for in this Constitution may not be proposed for revision except in relation to the title of the Amirate or to increase the guarantees of liberty and equality.

Art. 176. The powers of the Amir, specified in this Constitution, may not be proposed for revision when a Deputy Amir is acting for him.

MONGOLIA

Constitution of the Mongolian People's Republic

Chapter X

Prucedure for Amending and Abolishing the Constitution of the Mongolian People's Republic

Art. 93. The Constitution of the Mongolian People's Republic may be amended only by a decision of the Great National Hural adopted by a majority of no less than two-thirds.

Art. 94. As various functions of the state gradually cease to exist under communism they will be effaced from the Constitution.

The Constitution of the M.P.R. will be abolished when there is no longer any need for the existence of the State, the chief instrument for the building of socialism and communism, when the State will be replaced by a communist association of working people.

NEPAL

The Constitution of Nepal

Part 16

Amendment of the Constitution

Art. 82. *Amendment of the Constitution.*

(1) His Majesty may, by proclamation, amend this Constitution.

(2) His Majesty shall exercise the power specified in sub-clause (1) only after consultation with the Special Committee specified in sub-clause (3) and only when it is consented to by a majority of at least two-thirds of the total membership of that Committee.

(3) A Special Committee consisting of the following members may, after discussion, suggest any change if to be made in the draft of the Royal Proclamation for the amendment of this Constitution :—

(a) Members of the Standing Committee of the Raj Sabha ; and

(b) Members of the Steering Committee of the Rashtriya Panchayat.

(4) A person, elected by the members of the Special Committee formed under clause (3) from among themselves, shall preside over meetings of that Committee.

(5) Any amendment made by His Majesty by a Proclamation under this Article shall form an integral part of this Constitution.

PHILIPPINES

Constitution of the Philippines

Article XV
Amendments

Section 1. The Congress in joint session assembled, by a vote of three-fourths of all the members of the Senate and of the House of Representatives voting separately, may propose amendments to this Constitution or call a convention for that purpose. Such amendments shall be valid as part of this Constitution when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

SYRIA

The Provisional Constitution of the Syrian Arab Republic

Final and Transitional Provisions

Art. 81. This Constitution may be amended on a proposal made by the Presidency Council or by the quarter of the National Council members. To be adopted, the proposal must get the approval of the two-thirds of the National Council members.

TURKEY

Constitution of the Turkish Republic

Part V I
Final Provisions

1. *Amendment of the Constitution* :

Art. 155. Proposals for the amendment of the Constitution may be submitted in writing by at least one-third majority of the

plenary session of the Turkish Grand National Assembly, but may not be debated with urgency. An amendment proposal shall be adopted by a two-thirds majority vote of the plenary session of each legislative body.

Outside of the requirements of paragraph 1, the debate and adoption of proposals for the amendment of the Constitution are subject to the provisions governing the debate and enactment of laws.

THE REPUBLIC OF VIET NAM

Provisional Constitutions of the Republic of Viet Nam

Chapter VII

Conclusion

Art. 23. Half of the membership of the Congress of the Armed Forces or half of the membership of the Directory may propose amendments to the present Convention.

Art. 24. Any proposal to amend the present Convention must state the reason for the amendment sought and the amendment will be sanctioned only if two-thirds of the members of the Congress of the Armed Forces agree.

DEMOCRATIC REPUBLIC OF VIET NAM

Constitution of the Democratic Republic of Viet Nam

Chapter X

Amendment of the Constitution

Only the National Assembly has power to revise the Constitution. Amendments to the Constitution require a two-thirds majority vote of all Deputies to the National Assembly.

MALAYSIA

Constitution of Malaysia

Amendment of the Constitution

Art. 159. (1) Subject to the following provisions of this Article and to Articles 161E and 161H (Safeguards for constitutional position of Borneo and Singapore States respectively) the provisions of this Constitution may be amended by federal law.

(2) (Repealed by 25 of 1963)

(3) A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this clause) shall not be passed in either House of Parliament unless it has been supported on second and third Readings by the votes of not less than two-thirds of the total number of members of that House.

(4) The following amendments are excepted from the provisions of clause (3), that it to say,—

(a) any amendment to Part III of the Second or to the Sixth or Seventh Schedule;

(b) any amendment incidental to or consequential on the exercise of any power to make law conferred on Parliament by any provision of this Constitution other than Articles 74 and 76 (Subject-matter of federal and State laws and power of Parliament to legislate for States in certain cases respectively);

(bb) subject to Article 161E any amendment made for or in connection with the admission of any State to the Federation or its association with the States thereof, or any modification made as to the application of this Constitution to a State previously so admitted or associated;

(c) any amendment incidental to or consequential on the repeal of a law made under clause (2) or consequential on an amendment made under paragraph (a).

(5) A law making an amendment to Articles 38, 70, 71(1) or 153 (Conference of Rulers, the States, Federal guarantee of State Constitution and Reservation of quotas in respect of services, permits, etc., for Malays respectively) shall not be passed without the consent of the Conference of Rulers.

(6) In this Article "amendment" includes addition and repeal and "State" includes any territory.

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AMERICAN STATES

ALABAMA

Article XVIII. Mode of Amending the Constitution[1]

Sec. 284. *Legislative proposals.* Amendments may be proposed to this Constitution by the legislature in the following manner : The proposed amendments shall be read in the House in which they originate on three several days, and, if upon the third Reading three-fifths of all the members elected to that House shall vote in favour thereof, the proposed amendments shall be sent to the other house, in which they shall likewise be read on three several days, and if upon the third Reading three-fifths of all the members elected to that house shall vote in favour of the proposed amendments, the legislature shall order an election by the qualified electors of the State upon such proposed amendments, to be held either at the general election next succeeding the session of the legislature at which the amendments are proposed or upon another day appointed by the legislature, not less than three months after the final adjournment of the session of the legislature at which the amendments were proposed. Notice of such election, together with the proposed amendments, shall be given by proclamation of the Governor, which shall be published in every county in such manner as the legislature shall direct, for at least eight successive weeks next preceding the day appointed for such election. On the day so appointed an election shall be held for the vote of the qualified electors of the state upon the proposed amendments. If such election be held on the day of the general election, the officers of such general election shall open a poll for the vote of the qualified electors upon the proposed amendments ;

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[1] See Amendment III adding article XIX ; Amendment XI adding article XX ; Amendment XXIII adding article XXI ; Amendment XXI adding article XXA ; Amendment XXV adding article XXII ; Amendment XXVI adding article XXXIII, Amendment XXVIA adding article XXIV.

if it be held on a day other than that of a general election, officers for such eletcion shall be appointed ; and the election shall be held in all things in accordance with the law governing general elections. In all elections upon such proposed amendments, the votes cast thereat shall be canvassed, tabulated, and returns thereof be made to the Secretary of State, and counted, in the same manner as in elections for representatives to the legislature ; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments voted in favour of the same, such amendments shall be valid to all intents and purposes as parts of this Constitution. The result of such election shall be made known by proclamation of the Governor. Representation in the legislature shall be based upon population, and such basis of representation shall not be changed by constitutional amendments.[1]

Sec. 285. *Form of ballot for amendment.* Upon the ballots used at all elections provided for in section 284 of this Constitution the substance or subject-matter of each proposed amendment shall be so printed that the nature thereof shall be clearly indicated. Following each proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No". The choice of the elector shall be indicated by a cross mark made by him or under his direction, opposite the word expressing his desire, and no amendment shall be adopted unless it receives the affirmative vote of a majority of all the qualified electors who vote at such election.

Sec. 286. *Constitutional conventions.* No convention shall hereafter be held for the purpose of altering or amending the Constitution of this state, unless after the legislature by a vote of a majority of all the members elected to each house has passed an Act or resolution calling a convention for such purpose, the question of convention or no convention shall be first submitted to a vote of all the qualified electors of the state, and approved by a majority of those voting at such election. No act or resolution of the legislature calling a convention for the purpose of altering or amending the Constitution of this State, shall be repealed except

[1] See Amendment XXIV.

upon the vote of a majority of all the members elected to each House at the same session at which such Act or resolution was passed ; provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the convention, when duly assembled in pursuance of this section, to establish such ordinances and to do and perform such things as to the convention may seem necessary or proper for the purpose of altering, revising, or amending the existing Constitution.

Sec. 287. *Legislative procedure on amendments.* All votes of the legislature upon proposed amendments to this Constitution, and upon bills or resolutions calling a convention for the purpose of altering or amending the Constitution of this State, shall be taken by ayes and noes and entered on the journals. No Act or resolution of the legislature passed in accordance with the provisions of this article, proposing amendments to this Constitution, or calling a convention for the purpose of altering or amending the Constitution of this State, shall be submitted for the approval of the Governor, but shall be valid without his approval.

ALASKA

Article XIII. Amendment and Revision

Sec. 1. *Amendments.* Amendments to this Constitution may be proposed by a two-thirds vote of each House of the legislature. The Secretary of State shall prepare a ballot title and proposition summarized each proposed amendment, and shall place them on the ballot for the next statewide election. If a majority of the votes cast on the proposition favour the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the Secretary of State.

Sec. 2. *Convention.* The legislature may call Constitutional Conventions at any time.

Sec. 3. *Call by referendum.* If during any ten-year period a Constitutional Convention has not been held, the Secretary of State shall place on the ballot for the next general election the question : "Shall there be a Constitutional Convention ?" If a majority of

the votes cast on the question are in the negative the question need not be placed on the ballot until the end of the next ten year period. If a majority of the votes cast on the question are in the affirmative, delegates to the Convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The Secretary of State shall issue the call for the Convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the Act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the State treasury.

Sec. 4. *Powers.* Constitutional Conventions shall have plenary power to amend or revise the Constitution, subject only to ratification by the people. No call for a Constitutional Convention shall limit these powers of the Convention.

ARIZONA

Article XXI. Mode of Amending

Sec. 1. *Introduction in legislature; initiative petition; election.* Any amendment or amendments to this Constitution may be proposed in either House of the Legislature, or by initative petition signed by a number of qualified electors equal to fifteen per centum of the total number of votes for all candidates for Governor at the last preceding general election.

Any proposed amendment or amendments which shall be introduced in either House of the Legislature ; and which shall be approved by a majority of the members elected to each of the two Houses, shall be entered on the journal of each House, together with the ayes and noes thereon. When any proposed amendment or amendments shall be thus passed by a majority of each House of the Legislature and entered in the respective journals therof, or when any elector or electors shall file with the Secretary of State any proposed amendment or amendments together with a petition therefor signed by a number of electors equal to fifteen per centum of the total number of votes for all

candidates for Governor in the last preceding general election, the Secretary of State shall submit such proposed amendment or amendments to the vote of the people at the next general election (except when the Legislature shall call a special election for the purpose of having said proposed amendment or amendments voted upon, in which case the Secretary of State shall submit such proposed amendment or amendments to the qualified electors at the said special election) and if a majority of the qualified electors voting thereon shall approve and ratify such proposed amendment or amendments in the said regular or special election, such amendment or amendments shall become a part of this Constitution. Until a method of publicity is otherwise provided by law, the Secretary of State shall have such proposed amendment or amendments published for a period of at least ninety days previous to the date of said election in at least one newspaper in every county of the State in which a newspaper shall be published, in such manner as may be prescribed by law. If more than one proposed amendment shall be submitted at any election, such proposed amendments shall be submitted in such manner that the electors may vote for or against such proposed amendments separately.

Sec. 2. *Convention.* No Convention shall be called by the Legislature to propose alterations, revisions or amendments to this Constitution, or to propose a new Constitution, unless laws providing for such Convention shall first be approved by the people on a Referendum vote at a regular or special election, and any amendments, alterations, revisions or new Constitution proposed by such Convention shall be submitted to the electors of the State at a general or special election and be approved by the majority of the electors voting thereon before the same shall become effective.

ARKANSAS

Article XIX. Miscellaneous Provisions

Sec. 22. *Constitutional amendments.* Either branch of the General Assembly at a regular session thereof may propose amendments to this Constitution, and, if the same be agreed to by a majority of all the members elected to each House, such proposed

amendments shall be entered on the journals with the ayes and noes, and published in at least one newspaper in each county where a newspaper is published, for six months immediately preceding the next general election for Senators and Representatives, at which time the same shall be submitted to the elector of the State for approval or rejection ; and if a majority of the electors voting at such election adopt such amendments the same shall become a part of this Constitution; but not more than three amendments shall be proposed or submitted at the same time. They shall be so submitted as to enable the electors to vote on each amendment separately.

CALIFORNIA

Article XVIII. Amending and Revising the Constitution

Sec. 1. *Constitutional amendments.* Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two-thirds of the members elected to each of the two Houses shall vote in favour thereof, such proposed amendment or amendments shall be entered in their journals, with the ayes and noes taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed, expedient. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished, by numbers or otherwise, that such can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting therein, such amendment or amendments shall become a part of this Constitution.

Sec. 2. *Constitutional Convention.* Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitutoin, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favour thereof, the Legislature shall, at its next session, provide by law for calling the same The Convention shall consist

of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him, and it shall be the duty of the Executive to declare, by his Proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

CONNECTICUT

Article Eleventh. Of amendments to the Constitution

Whenever a majority of the House of Representatives shall deem it necessary to alter, or amend this Constitution, they may propose such alterations and amendments; which proposed amendments shall be continued to the next General Assembly, and be published with the laws which may have been passed at the same session; and if two-thirds of each House, at the next session of said Assembly, shall approve the amendments proposed, by ayes and noes, said amendments shall, by the Secretary, be transmitted to the town clerk in each town in the State; whose duty it shall be to present the same to the inhabitants thereof, for their consideration, at a town meeting, legally warned and held for that purpose; and if it shall appear in a manner to be provided by law, that a majority of the electors present at such meetings shall have approved such amendments, the same shall be valid, to all intents and purposes, as a part of this Constitution.

COLORADO

Article XIX. Amendments

Sec. 1. *Constitutional Convention: how called.* The General

Assembly may at any time by a vote of two-thirds of the members elected to each House, recommend to the electors of the State, to vote at the next general election for or against a Convention to revise, alter and amend this Constitution; and if a majority of those voting on the question shall declare in favour of such Convention, the General Assembly shall, at its next session, provide for the calling thereof. The number of members of the Convention shall be twice that of the Senate and they shall be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the Act calling the Convention, designate the day, hour and place of its meeting; fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the Convention. Before proceeding, the members shall take an oath to support the Constitution of the United States, and of the State of Colorado, and to faithfully discharge their duties as members of the Convention. The qualifications of members shall be the same as of members of the Senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said Convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the Constitution as may be deemed necessary; which shall be submitted to the electors for their ratification or rejection at an election appointed by the Convention for that purpose, not less than two nor more than six months after adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

Sec. 2. *Amendments to Constitution; how adopted.* Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each House, such proposed amendment or amendments, together with the ayes and noes of each House thereon, shall be entered in full on their respective journals; the proposed amendment or amendments shall be published with the laws of that session of the General Assembly, and the Secretary of State shall also cause the said amendment or amendments to be published in full in not more than one news-

paper of general circulation in each county, for four successive weeks previous to the next general election for members of the General Assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this Constitution.

Provided, that if more than one amendment be submitted at any general election, each of said amendments shall be voted upon separately and votes thereon cast shall be separately counted the same as though but one amendment was submitted. But the General Assembly shall have no power to propose amendments to more than six articles of this Constitution at the same session.

DELAWARE

Article XVI. Amendments and Conventions

Sec. 1. *Proposal of Constitutional amendments in General Assembly ; procedure.* Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by two-thirds of all the members elected to each House, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon and the Secretary of State shall cause such proposed amendment or amendments to be published three months before the next general election in at least three newspapers in each county in which such newspapers shall be published; and if in the General Assembly next after the said election such proposed amendment or amendments shall upon yes and no vote be agreed to by two-thirds of all the members elected to each House, the same shall thereupon become part of the Constitution.

Sec. 2. *Constitutional Conventions ; procedure ; compensation of delegates ; quorum ; powers and duties ; vacancies.* The General Assembly by a two-thirds vote of all the members elected to each House may from time to time provide for the submission to the qualified electors of the State at the general election next thereafter the question : "Shall there be a Convention to revise the Constitution and amend the same ?"; and upon such submis-

sion, if a majority of those voting on said question shall decide in favour of a Convention for such purpose, the General Assembly at its next session shall provide for the election of delegates to such Convention at the next general election Such Convention shall be composed of forty-one delegates, one of whom shall be chosen from each Representative District by the qualified electors thereof, and two of whom shall be chosen from New Castle county, two from Kent county and two from Suex county by the qualified electors thereof respectively. The delegates so chosen shall convene at the capital of the State on the first Tuesday in September next after their election. Every delegate shall receive for his services such compensation as shall be provided by law. A majority of the Convention shall constitute a quorum for the transaction of business. The Convention shall have power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation, and provide for the printing of its documents, journals, debates and proceedings. The Convention shall determine the rules of its proceedings, and be the judge of the elections, returns and qualifications of its members. Whenever there shall be a vacancy in the office of delegate from any district or county by reason of failure to elect, ineligibility, death, resignation or otherwise, a writ of election to fill such vacancy shall be issued by the Governor, and such vacancy shall be filled by the qualified electors of such district or county.

Sec. 3. *Reviewing, tallying and counting votes for or against Convention; return of vote; enabling legislation.* The General Assembly shall provide for receiving, tallying and counting the votes for or against a Convention, and for returning to the General Assembly at its next session the state of such vote; and shall also enact all provisions necessary for giving effect to this article.

Sec. 4. *Approval of Bills or resolutions under this article; exemptions from article 111, section 18.* No Bill or resolution passed by the General Assembly under or pursuant to the provisions of this article shall require for its validity the approval of the Governor, and the same shall be exempt from the provisions of section 18 of article 111, of this Constitution.

Sec. 5. *Separate ballots on question of Convention.* In voting at any general election, upon the question, "Shall there be a Convention to revise the Constitution and amend the same ?", the ballot shall be separate from those cast for any person voted for at such election, and shall be kept distinct and apart from all other ballots.

FLORIDA

Article XVII. Amendments

Sec. 1. *Method of amending Constitution.* Either branch of the Legislature, at any regular session, or at any special or extraordinary session thereof called for such purpose either in the Governor's original call or any amendment thereof, may propose the revision of amendment of any portion or portions of this Constitution. Any such revision or amendment may relate to one subject or any number of subjects, but no amendment shall consist of more than one revised article of the Constitution.

If the proposed revision or amendment is agreed to by three-fifths of the members elected to each House, it shall be entered upon their respective journals with the yeas and nays and published in one newspaper in each county where a newspaper is published for two times, one publication to be made not earlier than ten weeks and the other not later than six weeks, immediately preceding the election at which the same is to be voted upon, and thereupon submitted to the electors of the State for approval or rejection at the next general election, provided, however, that such revision or amendment may be submitted for approval or rejection in a special election under the conditions described in and in the manner provided by section 3 of article XVII of this Constitution. If a majority of the electors voting upon the amendment adopt such amendment the same shall become a part of this Constitution.[1]

Sec. 2. *Method of revising Constitution.* If at any time the Legislature, by a vote of two-thirds of all the members of both

[1] Amended 1948.

Houses, shall determine that a revision of this Constitution is necessary, such determination shall be entered upon their respective journals, with the ayes and noes thereon. Notice of said action shall be published weekly in one newspaper in every county in which a newspaper is published, for three months preceding the next general election of Representatives, and in those counties where no newspaper is published, notice shall be given by posting at the several polling precincts in such counties for six weeks next preceding said election. The electors at said election may vote for or against the revision in question. If a majority of the electors so voting be in favour of revision, the Legislature chosen at such election shall provide by law for a Convention to revise the Constitution, said Convention to be held within six months after the passage of such law. The Convention shall consist of a number equal to the member-ship of the House of Representatives, and shall be apportioned among the several counties in the same manner as members of said House.

Sec. 3. *Method of amending Constitution at special election.* If at any regular or special or extra session, the Legislature, by vote of three-fourths of all members elected to each House, shall determine that an emergency requiring an early decision by the electors of the State exists, an amendment to this Constitution dealing with the subject-matter of such emergency may be proposed, and if the proposed amendment be agreed to by a three-fourths vote of all the members elected to each House, the same shall be entered upon their respective journals with the yeas and nays thereon. Thereupon, at the same session, the Legislature shall provide for a special election to be held not less than ninety nor more than one hundred eighty days after adjournment and for publication of notice thereof, at which special election the proposed amendment shall be submitted to the electors of the State for approval or rejection ; provided, that if a general election of Representatives is to occur within said period, such amendment shall be submitted to the electors at such general election.

If a majority of the electors voting upon the proposed amendment shall adopt the amendment, the same shall become a part of this Constitution. This amendment shall not be held

to supersede or in anywise effect any existing provision of the Constitution relating to amendments, but shall be regarded as an additional method of amendment thereto.

GEORGIA

Article XIII. Amendments to the Constitution
Section 1

Paragraph *I Proposal by General Assembly ; submission to people.* An amendment to this Constitution may be proposed by a resolution in the Senate or the House of Representatives, and if the same shall be agreed to by two-thirds of the members elected to each branch of the General Assembly, such proposed amendment shall be entered on the journals of each branch with the ayes and noes taken thereon. Any proposed amendment may be repealed or amended by the same General Assembly, if done so at least two months prior to the date of the election at which such proposed amendment is to be submitted.

The Governor, the Attorney General, and the Secretary of State shall meet and determine whether a proposed amendment is general, and if not general, shall determine what political sub-division or sub-divisions are directly affected by such proposed amendment. If a proposed amendment is general, the Governor shall cause such proposed amendment to be published in full once each week for three consecutive weeks immediately preceding the date of the election at which such proposed amendment is submitted, in one newspaper of general circulation in each Congressional District of the State. If such proposed amendment is not general, the Governor shall cause such proposed amendment to be published in full in one newspaper of general circulation in each county in which the directly affected political sub-division or sub-divisions are located. In the event no such newspaper is located in such county, a newspaper in an adjoining county shall be used.

Any proposed amendment which is general shall be submitted to the people of the entire State at the next general election at which members of the General Assembly are elected, and if ratified by a majority of the electors qualified to vote for members

of the General Assembly voting thereon, such amendment shall become a part of this Constitution. A proposed amendment which is not general shall only be submitted to the people of the political sub-division or sub-divisions directly affected. The votes of the electors in each political subdivision affected shall be counted separately in determining whether such proposed amendment is ratified, and it must be ratified by a majority of the electors qualified to vote for members of the General Assembly voting thereon in each such political sub-division before it shall become a part of the Constitution. The General Assembly, in the resolution, shall state the language to be used in submitting the proposed amendment.

When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.[1]

Paragraph II. *Convention, how called.* No convention of the people shall be called by the General Assembly to revise, amend or change this Constitution, unless by the concurrence of two-thirds of all members of each House of the General Assembly. The representation in said Convention shall be based on population as near as practicable. This Constitution shall not be revised, amended, or changed by the Convention until the proposed revision, amendment, or change has been submitted and ratified by the people in the manner provided for submission and ratification of amendments proposed by the General Assembly.

Paragraph III. *Veto not permitted.* The Governor shall not have the right to veto any proposal by the General Assembly to amend the Constitution.

HAWAII

Article XV. Revision and Amendment

Sec. 1. *Methods of proposal.* Revisions of or amendments to this Constitution may be proposed by Constitutional Convention or by the legislature.

[1]. Amended 1952 and 1956.

Sec. 2. *Constitutional convention.* The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution ?" If any ten-year period shall elapse during which the question shall not have been submitted, the Lieutenant Governor shall certify the question, to be voted on at the first general election following the expiration of such period.

Election of delegates. If a majority of the ballots cast upon such question be in the affirmative, delegates to the Convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than section 3 of article XIV, any qualified voter of the district concerned shall be eligible to membership in the Convention.

Unless the legislature shall otherwise provide, there shall be the same number of delegates to such Convention, who shall be elected from the same areas, and the Convention shall be convened in the same manner, as nearly as practicable, as required for the Hawaii State Constitutional Convention of 1950.

Organization; procedure. The Convention shall determine its own organization and rules of procedure. It shall be the sole judge of the elections, returns and qualifications of its members and, by a two-thirds vote, may suspend or remove any member for cause. The Governor shall fill any vacancy by appointment of a qualified voter from the district concerned.

Ratification; appropriations. The Convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate, but no such revision or amendments shall be effective unless approved at a general election by a majority of all of the votes tallied upon the question, such majority constituting at least thirty-five per cent of the total votes cast at such election, or at a special election by a majority of the total votes tallied upon such question, such majority constituting at least thirty-

five per cent of the total number of registered voters ; provided, that no constitutional amendment altering this proviso or the representation from any senatorial district in the Senate shall become effective unless it shall also be approved by a majority of the votes tallied upon the question in each of a majority of the counties.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation.

Sec. 3. *Amendments proposed by legislature.* The legislature may propose amendments to the Constitution by adopting the same, in the manner required for legislation, by a two-thirds vote of each House on final reading at any session, after either or both Houses shall have given the Governor at least ten days' written notice of the final form of the proposed amendment, or, with or without such notice, by a majority vote of each House on final reading at each of two successive sessions.

Upon such adoption, the proposed amendments shall be entered upon the journals, with the ayes and noes, and published once in each of four successive weeks in at least one newspaper of general circulation in each senatorial district wherein such a newspaper is published, within the two months' period immediately preceding the next general election.

At such general election the proposed amendments shall be submitted to the electorate for approval or rejection upon a separate ballot.

The conditions of and requirements for ratification of such proposed amendments shall be the same as provided in section 2 of this article for ratification at a general election.

Section 4. *Veto.* No proposal for amendment of the Constitution adopted in either manner provided by this article shall be subject to veto by the Governor.

IDAHO

Article XX. Amendments

Sec. 1. *How amendments may be proposed?* Any amendment

or amendments to this Constitution may be proposed in either branch of the legislature, and if the same shall be agreed to by two-thirds of all the members of each of the two Houses, voting separately, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the legislature to submit such amendment or amendments to the electors of the State at the next general election, and cause the same to be published without delay for at least six consecutive weeks, prior to said election, in not less than one newspaper of general circulation published in each county; and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Sec. 2. *Submission of several amendments.* If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.

Sec. 3. *Revision or amendment by convention.* Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend this Constitution, they shall recommend to the electors to vote at the next general election, for or against a convention, and if a majority of all the electors voting at the said election shall have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members not less than double the number of the most numerous branch of the legislature.

Sec. 4. *Submission of revised Constitution to people.* Any Constitution adopted by such convention, shall have no validity until it has been submitted to, and adopted by, the people.

ILLINOIS

Article XIV. Amendment to the Constitution

Sec. 1. *Constitutional Convention.* Whenever two-thirds of the members of each House of the General Assembly shall,

by a vote entered upon the journals thereof, concur that a Convention is necessary to revise, alter or amend the Constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a Convention, the General Assembly shall, at the next session provide for a Convention, to consist of double the number of members of the Senate, to be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the Act calling the Convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the Convention in the performance of its duties. Before proceeding the members shall take oath to support the Constitution of the United States, and of the State of Illinois, and to faithfully discharge their duties as members of the Convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said Convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the Convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved, by a majority of the electors voting at the election, no such revision, alterations or amendments shall take effect.

Sec. 2. *Constitutional amendments proposed by legislature.* Amendments to this Constitution may be proposed in either House of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two Houses, such proposed amendments, together with the yeas and nays of each House thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. Each proposed amendment shall be published in full at least three months preceding the election,

and if either a majority of the electors voting at said election or two-thirds of the electors voting on any such proposed amendment shall vote for the proposed amendment, it shall become a part of this Constitution. But the General Assembly shall have no power to propose amendments to more than three articles of this Constitution at the same session, nor to the same article oftener than once in four years. The proposition for the adoption or rejection of the proposed amendment or amendments shall be printed on a separate ballot or in a separate column on the ballot as the General Assembly by law may provide and the votes thereon shall be cast by voting upon such separate ballot or in such separate column as the case may be.[1]

INDIANA

Article 16. Amendments

Sec. 1. *Amendments.* Any amendment or amendments to this Constitution, may be proposed in either branch of the General Assembly ; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election ; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State ; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Sec. 2. *Submission.* If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately ; and while an amendment or amendments, which shall have been agreed upon by one General Assembly, shall be awaiting the action of a succeeding General Assembly

[1] Amended 1950.

or of the electors, no additional amendment or amendments shall be proposed.

IOWA

Article X. Amendments to the Constitution

Sec. 1. How Proposed : submission. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly ; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the ayes and noes taken thereon, and referred to the Legislature to be choosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice ; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time as the General Assembly shall provide ; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this State.

Sec. 2. *More than one amendment.* If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of amendments separately.

Sec. 3. *Convention.* At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same ?" shall be decided by the electors qualified to vote for members of the General Assembly ; and in case of a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favour of a Convention for such purpose, the

General Assembly, at its next session, shall provide by law for the election of delegates to such convention.

KANSAS

Article 14

Sect. 1. *Proposal of amendments; publication; election.* Propositions for the amendment of this Constitution may be made by either branch of the Legislature; and if two-thirds of all the members elected to each House shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal; and the Secretary of State shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors voting on said amendments at said election, shall adopt the amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

Sec. 2. *Constitutional Convention.* Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election of members to the legislature, for or against a Convention; and if a majority of all the electors voting at such election, shall have voted for a Convention, the legislature shall at the next session, provide for calling the same.

KENTUCKY

Mode of Revision

Sec. 256. *Amendments to Constitution; how proposed and voted upon.* Amendments to this Constitution may be proposed

in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election for members of the House of Representatives the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same Board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than two amendments shall be voted upon at any one time ; nor shall the same amendment be again submitted within five years after submission. Said amendments shall be so submitted as to allow a separate vote on each, and no amendment shall relate to more than one subject. But no amendment shall be proposed by the first General Assembly which convenes after the adoption of this Constitution. The approval of the Governor shall not be necessary to any Bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Sec. 257. *Publication of proposed amendments.* Before an amendment shall be submitted to a vote, the Secretary of State shall cause such proposed amendment, and the time that the same is to be voted upon, to be published at least ninety days before the vote is to be taken thereon in such manner as may be prescribed by law.

Sec. 258. *Constitutional Convention ; how proposed, voted upon and called.* When a majority of all the members elected to each House of the General Assembly shall concur, by a yea and nay vote, to be entered upon their respective journals, in enacting a law to take the sense of the people of the State as to the necessity and expediency of calling a Convention for the purpose of revising or amending this Constitution, and such amendments as may have been made to the same, such law shall be spread upon their respective journals. If the next General Assembly shall, in like manner, concur in such law, it shall provide for having a poll opened in each voting precinct in this State by the officers provided by law for holding general elections at the next ensuring regular election to be held for State officers or members of the House of Representatives, which does not occur within ninety days from the final passage of such law, at which time and places the votes of the qualified voters shall be taken for and against calling the Convention, in the same manner provided by law for taking votes in other State elections. The vote for and against said proposition shall be certified to the Secretary of State by the same officers and in the same manner as in State elections. If it shall appear that a majority voting on the proposition was for calling a Convention, and if the total number of votes cast for the calling of the Convention is equal to one-fourth of the number of qualified voters who voted at the last preceding general election in this State, the Secretary of State shall certify the same to the General Assembly at its next regular session, at which session a law shall be enacted calling a Convention to re-adopt, revise or amend this Constitution, and such amendments as may have been made thereto.

Sec. 259. *Number and qualifications of delegates.* The Convention shall consist of as many delegates as there are members of the House of Representatives ; and the delegates shall have the same qualifications and be elected from the same districts as said Representatives.

Sec. 260. *Election of delegates ; meeting.* Delegates to such Convention shall be elected at the next general State election after the passage of the Act calling the Convention, which does not occur within less than ninety days ; and they shall meet within ninety

days after their election at the Capital of the State, and continue in session until their work is completed.

Sec. 261. *Certification of election and compensation of delegates.* The General Assembly, in the Act calling the Convention, shall provide for comparing the polls and giving certificates of election to the delegates elected, and provide for their compensation.

Sec. 262. *Determination of election and qualifications of delegates; contests.* The Convention, when assembled, shall be the judge of the election and qualification of its members, and shall determine contested elections. But the General Assembly shall, in the Act calling the Convention, provide for taking testimony in such cases, and for issuing a writ of election in case of a tie.

Sec. 263. *Notice of election on question of calling Convention.* Before a vote is taken upon the question of calling a Convention, the Secretary of State shall cause notice of the election to be published in such manner as may be provided by the Act directing said vote to be taken.

LOUISIANA

Article. XXI. Amendments to the Constitution

Sec. 1. *Proposals; procedure; approval; proclamation; multiple amendments; numbering.* Propositions for amending the Constitution may be made by the Legislature at any session, and if two-thirds of the members elected to each House shall concur therein, after such proposed amendment or amendments have been read in both Houses on three separate days, such proposed amendment or amendments, together with the yeas and nays thereon, shall be entered on the journal, and the Secretaty of State shall cause the same to be published, in one newspaper in each parish of the State in which a newspaper is published, twice within not less than thirty nor more than sixty days preceding an election for Representatives in the Legislature or Congress. The Legislature shall designate the election at which the said amendment or amendments shall be submitted to the electors for their

approval orrejection ; and if a majority of the electors voting thereshall vote for the proposed amendment or amendments, then such amendment or amendments shall become a part of the Constitution, effective twenty days after issuance of the Governor's Proclamation. When more than one amendment shall be submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately. The result of said election shall be made known by Proclamation of the Governor.

No proposition for amending the Constitution shall be considered unless introduced in the Legislature within the first thirty days of its session.

Amendments which have been adopted shall be numbered consecutively ; and shall, where possible, refer to the numbers of the articles and sections which have been amended.

Sec. 2. *Laws effectuating amendments.* Whenever the Legislature shall submit amendments to this Constitution, it may, at the same session, pass laws to carry them into effect, to become operative when the proposed amendments have been ratified.

MAINE

Article X. Additional Provisions

Sec. 4. *Amendments to Constitution.* The Legislature, whenever two-thirds of both Houses shall deem it necessary, may propose amendments to this Constitution, and when any amendments shall be agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at the next biennial meetings in the month of November, or to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives, on the Tuesday following the first Monday of November following the passage of said resolve, to give in their votes on the question, whether such amendments shall be made ; and if it shall appear that a majority

of the inhabitants voting on the question are in favour of such amendment, it shall become a part of this Constitution.

MARYLAND

Article XIV. Amendments to the Constitution.

Sec. 1. Proposal in General Assembly ; publication ; su mission to voters ; governor's proclamation. The General Assembly may propose amendments to this Constitution ; provided that each amendment shall be embraced in a separate bill, embodying the article or section, as the same will stand when amended and passed by three-fifths of all the members elected to each of the two houses, by ayes and noes, to be entered on the journals with the proposed amendments. The bill or bills proposing amendment or amendments shall be published by order of the Governor, in at least two newspapers, in each county, where so many may be published, and where not more than one may be published, then in that newspaper, and in three newspapers published in the city of Baltimore, once a week for four weeks immediately preceding the next ensuing general election, at which the proposed amendment or amendments shall be submitted, in a form to be prescribed by the General Assembly, to the qualified voters of the state for adoption or rejection. The votes cast for and against the said proposed amendment or amendments, severally, shall be returned to the Governor, in the manner prescribed in other cases, and if it shall appear to the Governor that a majority of the votes cast at the said election on the said amendment or amendments, severally, were cast in favour thereof, the Governor shall, by his proclamation, declare the said amendment or amendments having received the said majority of votes, to have been adopted by the people of Maryland as part of the Constitution thereof, thenceforth the said amendment or amendments shall be part of the said Constitution. When two or more amendments shall be submitted in manner aforesaid, to the voters of this state at the same election, they shall be so submitted that each amendment shall be voted on separately.

Sec. 2. *Constitutional Conventions.* It shall be the duty of the General Assembly to provide by law for taking, at the general

election to be held in the year nineteen hundred and seventy, and every twenty years thereafter, the sense of the people in regard to calling a convention for altering this Constitution ; and if a majority of voters at such election or elections shall vote for a convention, the General Assembly, at its next session, shall provide by law for the assembling of such convention, and for the election of delegates thereto Each country, and Legislative District of the City of Baltimore, shall have in such convention a number of delegates equal to its representations in both houses at the time at which the convention is called. But any constitution, or change, or amendment of the existing Constitution, which may be adopted by such convention, shall be submitted to the voters of this state, and shall have no effect unless the same shall have been adopted by a majority of the voters voting thereon.

MASSACHUSETTS

Article IX. Amendments to Constitution, How Made

If at any time hereafter any specific and particular amendment or amendments to the Constitution be proposed in the general Court, and agreed to by a majority of the Senators and two-thirds of the members of the House of Representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the ayes and noes taken thereon, and referred to the General Court then next to be chosen, and shall be published ; and if, in the General Court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two-thirds of the members of the House of Representatives present and voting thereon ; then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people : and if they shall be approved and ratified by a majority of the qualified voters voting thereon, at meetings legally constituted for that purpose, they shall become part of the Constitution of this Commonwealth.[1]

[1] Adopted 1821. See Amendments, Art XLVIII.

CONSTITUTION OF MICHIGAN

Article XII. Amendment and Revision

Sec. 1. Amendment ; proposal by legislature ; vote by electors. Amendments to this Constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the Constitution and shall abrogate or amend existing provisions of the Constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendment; proposal by electors ; vote by electors, Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 per cent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the Constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publications

shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorised by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the Constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. General revision ; submission of question ; convention ; procedure. At the general election to be held in the year 1978 and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the Constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favour of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems neces-

sary and to fix their compensation ; to provide for the printing and distribution of its documents, journals and proceedings ; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

MINNESOTA

Article XIV. Amendments to the Constitution

Sec. 1. Amendments to the constitution ; majority vote of electors voting makes amendment valid. Whenever a majority of both houses of the legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection at any general election, and if it shall appear, in a manner to be provided by law, that a majority of all the electors voting at said election shall have voted for and ratified such alterations or amendments, the same shall be valid to all intents and purposes as a part of this constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.[1]

[1] Amended 1898

Sec. 2. Revision of constitution. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this Constitution, they shall recommend to the electors to vote at the next general election for members of the legislature, for or against a covention ; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

Sec 3. Submission to people of revised constitution drafted at convention. Any convention called to revise this constitution shall submit any revision thereof by said convention to the people of the State of Minnesota for their approval or rejection at the next general election held not less than 90 days after the adoption of such revision, and, if it shall appear in the manner provided by law that three-fifths of all the electors voting on the question shall have voted for and ratified such revision, the same shall constitute a new constitution of the State of Minnesota. Without such submission and ratification, said revision shall be of no force or effect. Section 9 of Article IV of the Constitution shall not apply to election to the convention.[1]

MISSISSIPPI

Article 15. Amendment to the Constitution

Sec. 273. *Procedure for amending constitution.* Whenever two-thirds of each house of the Legislature, which two-thirds shall consitst of not less than a majority of the members elected to each house, shall deem any change, alteration, or amendment necessary to this Constitution, such proposed amendmet, change or alteration shall be read and passed by two-thirds vote of each house, as herein provided ; public notice shall then be given by the Secre-

[1] Added 1954.

tary of State at least thirty days preceding an election, at which the qualified electors shall vote directly for or against such change, alteration or amendment, and if more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately ; and notwithstanding the division of the Constitution into sections, the Legislature may provide in its resolution for one or more amendments pertaining and relating to the same subject or subject matter, and may provide for one or more amendments to an article of the Constitution pertaining and relating to the same subject or subject matter, which may be included in and vote on as one amendment ; and if it shall appear that a majority of the qualified electors voting directly for or against the same shall have voted for the proposed change, alteration or amendment, then it shall be inserted as a part of the Constitution by proclamation of the Secretary of State certifying that it received the majority vote required by the Constitution ; and the resolution may fix the date and direct the calling of elections for the purposes hereof.[1]

MONTANA

Article XIX. Miscellaneous Subjects and Future Amendments

Sec. 8. *Constitutional convention.* The Legislative Assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution ; and if a majority of those voting on the question shall declare in favour of such convention, the Legislative Assembly shall, at its next session, provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The Legislative Assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of

[1] Amended 1912 and 1959.

its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the state of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of the members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the Legislative Assembly. The said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two or more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

Sec. 9. *Procedure for amending*. Amendments to this constitution may be proposed in either house of the Legislative Assembly, and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; and the Secretary of State shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the legislative assembly; and at the said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection and such as are approved by a majority of those voting thereon shall become part of the constitution. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted upon separately; provided, however, that not more than three amendments to this constitution shall be submitted at the same election.

NEBRASKA

Article XVI. Amendments

Sec. 1. *How proposed.* The Legislature may propose amendments to this Constitution. If the same be agreed to by three-fifths of the members elected to the Legislature, such proposed amendments shall be entered on the journal, with the ayes and noes, and published one each week for three consecutive weeks, in at least one newspaper in each county, where a newspaper is published, immediately preceding the next election of members of the Legislature. At such election the said amendments shall be submitted to the electors for approval or rejection upon a ballot separate from that upon which the names of candidates appear. If a majority of the electors voting on any such amendment about the same, it shall become a part of this Constitution, provided the votes cast in favour of such amendment shall not be less than thirty-five per cent of the total votes cast at such election. When two or more amendments are submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.[1]

Sec. 2. *Convention.* When three-fifths of the members elected to the Legislature deem it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the Legislature, for or against a convention, and if a majority of the electors voting on the proposition, vote for a convention, the Legislature shall, at its next session provide by law for calling the same ; provided, the votes cast in favour of calling a convention shall not be less than thirty-five per cent of the total votes cast at such election. The convention shall consist of not more than one hundred members, the exact number to be determined by the Legislature, and to be nominated and elected from districts in the manner to be prescribed by the Legislature. Such members shall meet within three months after their election, for the purpose aforesaid. No amendment or change of this constitution, agreed upon by such convention, shall take effect until the same has

[1] Amended 1952.

been submitted to the electors of the state, and adopted by a majority of those voting for and against the same.[1]

NEVADA

Article XVI. Amendments

Sec. 1. *Constitutional amendments* : procedure. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly ; and if the same shall be agreed to by a Majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the ayes and noes taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become a part of the Constitution.

Sec. 2. *Convention for revision of constitution* : procedure. If at any time the Legislature by a vote of two-thirds of the members elected to each house, shall determine that it is necessary to cause a revision of this entire Constitution they shall recommend to the electors at the next election for Members of the Legislature, to vote for or against a convention, and if it shall appear that a majority of the electors voting at such election, shall have voted in favour of calling a convention, the Legislature shall, at its next session provide by law for calling a convention to be held within six months after the passage of such law, and such convention shall consist of a number of members not less than that of both branches of the Legislature. In determining what is a majority of

[1] Amended 1952.

the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

NEW HAMPSHIRE

Oaths and Subscriptions.—Exclusion From Office.—Commissions.—Writs—Confirmation of Laws.—Habeas Corpus—The Enacting Style.—Continuance of Officers.—Provision For A Future Revision of the Constitution—Etc.

Art. 98. *Constitution, when to take effect.* To the end that there may be no failure of justice, or danger to the state, by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.[1]

Art. 99. *Revision of Constitution provided for.* It shall be the duty of the selectmen, and assessors, of the several towns and places in this state, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution, as amended, to insert expressly in the warrant this purpose, among the others for the meeting, to wit, to take the sense of the qualified voters on the subject of a revision of the constitution; and, the meeting being warned accordingly, and not otherwise, the moderator shall take the sense of the qualified voters present as to the necessity of a revision; and a return of the number of votes for and against such necessity, shall be made by the clerk sealed up, and directed to the general court at their then next session; and if, it shall appear to the general court by such return, that the sense of the people of the state has been taken, and that, in the opinion of the majority of the qualified voters in the state, present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose, otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before

[1] Amended 1793

mentioned. The delegates to be chosen in the some manner, and proportioned, as the representatives to the general court; provided that no alterations shall be made in this constitution, before the same shall be laid before the town and unincorporated places, and approved by two-thirds of the qualified voters present and voting on the subject.

Art. 100. Question on revision to be taken every seven years. And the same method of taking the sense of the people, as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterwards, at the expiration of every seven years.[1]

NEW JERSEY

Article IX. Amendments

1. Proposal of amendments; public hearing; approval by legislature. Any specific amendment or amendments to this Constitution may be proposed in the Senate or General Assembly. At least twenty calendar days prior to the first vote thereon in the house in which such amendment or amendments are first introduced, the same shall be printed and placed on the desks of the members of each house. Thereafter and prior to such vote a public hearing shall be held thereon. If the proposed amendment or amendments or any of them shall be agreed to by three-fifths of all the members of each of the respective houses, the same shall be submitted to the people. If the same or any of them shall be agreed to by less than three-fifths but nevertheless by a majority of all the members of each of the respective houses, such proposed amendment or amendments shall be referred to the Legislature in the next legislative year; and if in that year the same or any of them shall be agreed to by a majority of all the members of each of the respective houses, then such amendment or amendments shall be submitted to the people.

2. Journal entries. The proposed amendment or amendments shall be entered on the journal of each house with the ayes and noes of the members voting thereon.

[1] Amended 1793

3. Publication of proposed amendments. The Legislature shall cause the proposed amendment or amendments to be published at least once in one or more newspapers of each county, if any be published therein, not less than three months prior to submission to the people.

4. Submission to people of proposed amendments. The proposed amendment or amendments shall then be submitted to the people at the next general election in the manner and form provided by the Legislature.

5. Multiple amendments ; form of submission to people. If more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

6. Approval by people ; effective date of amendments. If the proposed amendment or amendments or any of them shall be approved by a majority of the legally qualified voters of the State voting thereon, the same shall become part of the Constitution on the thirtieth day after the election, unless otherwise provided in the amendment or amendments.

7. Resubmission of rejected amendments. If at the election a proposed amendment shall not be approved, neither such proposed amendment nor one to effect the same or substantially the same change in the Constitution shall be submitted to the people before the third general election thereafter.

NEW MEXICO

Article XIX. Amendments

Sec. 1. *Proposing and ratifying amendments* ; restrictions. Any amendment or amendments to this Constitution may be proposed in either house of the legislature at any regular session thereof ; and if a majority of all members elected to each of the two houses voting separately shall vote in favour thereof, such proposed amendment or amendments shall be entered on their respective journals with the ayes and noes thereon.

The Secretary of State shall cause any such amendment or amendments to be published in at least one newspaper in every county of the state, where a newspaper is published once each

week, for four consecutive weeks, in English and Spanish when newspapers in both of the said languages are published in such counties, the last publication to be not more than two weeks prior to the election at which time the said amendment or amendments shall be submitted to the electors of the state for their approval or rejection ; and the said amendment or amendments shall be voted upon at the next regular election held in the said state after adjournment of the legislature proposing such amendment or amendments, or at such special election to be held not less than six months after adjournment of the said legislature at such time as the said legislature may by law provide. If the same be ratified by a majority of the electors voting thereon such amendment or amendments shall become part of this Constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately : provided that no amendment shall apply to or affect the provisions of sections one and three of Article VII hereof, on Elective Franchise, and sections eight and ten of Article XII hereof, on education, unless it be proposed by a vote of three-fourths of the members elected to each house and be ratified by a vote of the people of this state in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment.

Sec. 2. Constitution conventions. Whenever, during the first twenty-five years after the adoption of this Constitution, the legislature, by a three-fourths vote of the members elected to each house, or after the expiration of said period of twenty-five years, by a two-thirds vote of the members elected to each house, shall deem it necessary to call a convention to revise or amend this Constitution, they shall submit the question of calling such convention to the electors at the next general election, and if a majority of all the electors voting on such question at the said election in the state shall vote in favour of calling a convention, the legislature shall, at the next session, provide by law for calling the same. Such convention shall consist of at least as many delegates as there are members of the house of representatives. The Constitution adopted by such convention shall have validity until it has been submitted to and ratified by the people.

Sec. 3. Initiative restricted. If this Constitution be in any way so amended as to allow laws to be enacted by direct vote of the electors, the laws which may be so enacted shall be only such as might be enacted by the legislature under the provisions of this Constitution.

Sec. 4. Amendment of compact with United States. When the United States shall consent thereto, the legislature, by a majority vote of the members in each house, may submit to the people the question of amending any provision of Article XXI of this Constitution on Compact with the United States to the extent allowed by the Act of Congress permitting the same, and if a majority of the qualified electors who vote upon any such amendment shall vote in favour thereof, the said article shall be thereby amended accordingly.

Sec. 5. Revision of amendment provision restricted. The provisions of section 1 of this article shall not be changed, altered, or abrogated in any manner except through a general convention called to revise this Constitution as herein provided.

MISSOURI

Article XII. Amending the Constitution

Sec. 1. *Limitation on revision and amendment.* This constitution may be revised and amended only as therein provided.

Sec. 2 (a).* Proposals of amendments by General Assembly. Constitutional amendments may be proposed at any time by a majority of the members-elect of each house of the general assembly, the vote to be taken by ayes and noes and entered on the journal.

Sec. 2 (b).* Submission of amendments proposed by general assembly or by the initiative. All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election call by the governor prior thereto, at which he may submit any

of the amendments. No such proposed amendment shall contain more than one amended and revised article of this Constitution, or one new article which shall not contain more than one subject and matters properly connected therewith. If possible, each proposed amendment shall be published once a week for two consecutive weeks in two newspapers of different political faith in each county, the last publication to be not more than thirty nor less than fifteen days next preceding the election If there be but one newspaper in any county, publication for four consecutive weeks shall be made. If a majority of the votes cast thereon is in favour of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.

Sec. 3 (a).* Referendum on constitutional convention ; qualifications of delegates ; selection of nominees for district delegates and delegates-at-large ; election procedure. At the general election on the first Tuesday following the first Monday in November 1962, and every twenty years thereafter, the secretary of state shall, and at any general or special election the general assembly by law may, submit to the electors of the state the question "Shall there be a convention to revise and amend the Constitution ?". The question shall be submitted on a separate ballot without party designation, and if a majority of the votes cast thereon is for the affirmative, the governor shall call an election of delegates to the convention on a day not less than three nor more than six months after the election on the question. At the election the electors of the state shall elect fifteen delegates-at-large and the electors of each state senatorial district shall elect two delegates. Each delegate shall possess the qualifications of a senator ; and no person holding any other office of trust or profit (officers of the organized militia, school directors, justices of the peace and notaries public excepted) shall be eligible to be elected a delegate. To secure representation from different political parties in each senatorial district, in the manner prescribed by its senatorial district committee each political party shall nominate but one condidate for delegate from each senatorial district, the certificate of nomination shall be filed in the office of the secretary

of state at least thirty days before the election, each candidate shall be voted for on a separate ballot bearing the party designation, each elector shall vote for but one of the candidates, and the two candidates receiving the highest number of votes in each senatorial district shall be elected. Candidates for delegates-at-large shall be nominated by nominating petitions only, which shall be signed by electors of the state equal to five per cent of the legal voters in the senatorial district in which the candidate resides until otherwise provided by law, and shall be verified as provided by law for initiative petitions, and filed in the office of the Secretary of State at least thirty days before the election. All such candidates shall be voted for on a separate ballot without party designation, and the fifteen receiving the highest number of votes shall be elected. Not less than fifteen days before the election, the secretary of state shall certify to the county clerk of the county the name of each person nominated for the office of delegate from the senatorial district in which the county, or any part of it, is included, and the names of all persons nominated delegates-at-large.

Sec. 3(b) Convention of delegates ; quarters ; oath ; compensation ; quorum ; vote required ; organization ; employees, printing, etc.; public sessions ; rules ; vacancies. The delegates so elected shall be convened at the seat of government by proclamation of the governor within six months after their election. The facilities of the legislative chambers and legislative quarters shall be made available for the convention and the delegates. Upon convening all delegates shall take an oath or affirmation to support the Constitution of the United States and of the state of Missouri, and to discharge faithfully their duties as delegates to the convention, and shall receive for their strvices the sum of ten dollars per diem and mileage as provided by law for members of the general assembly. A majority of the delegates shall constitute a quorum for the transaction of business, and no constitution or amendment to this constitution shall be submitted to the electors for approval or rejection unless by the assent of a majority of all the delegates-elect, the ayes and noes being entered on the journal. The convention may appoint such officers, employees and assistants as it may deem necessary, fix

their compensation, provide for the printing of its documents, journals, proceedings and a record of its debates, and appropriate money for the expenditures incurred. The sessions of the convention shall be held with open doors, and it shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its delegates. In case of a vacancy by death, resignation or other cause, the vacancy shall be filled by the governor by the appointment of another delegate of the political party of the delegate causing the vacancy.

Sec. 3(c). *Submission of proposal adopted by convention ; time of election ; effective date.* Any proposed constitution or constitutional amendment adopted by the convention shall be submitted to a vote of the electors of the state at such time, in such manner and containing such separate and alternative propositions and on such official ballot as may be provided by the convention, at a special election not less than sixty days nor more than six months after the adjournment of the convention. Upon the approval of the constitution or constitutional amendments the same shall take effect at the end of thirty days after the election. The result of the election shall be proclaimed by the governor.

NEW YORK

Article XIX. Amendments to Constitution

Sec. 1. Amendments to constitution ; how proposed, voted upon and ratified ; failure of Attorney-general to render opinion not to affect validity. Any amendment or amendments to this constitution may be proposed in the senate and assembly, whereupon such amendment or amendments shall be referred to the Attorney-general whose duty it shall be with twenty days thereafter to render an opinion in writing to the senate and assembly as to the effect of such amendment or amendments upon other provisions of the constitution. Upon receiving such opinion, if the amendment or amendments as proposed or as amended shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be

entered on their journals, and the ayes and noes taken thereon, and referred to the next regular legislative session convening after the succeeding general election of members of the assembly, and shall be published for three months previous to the time of making such choice ; and if in such legislative session, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit each proposed amendment or amendments to the people for approval in such manner and at such times as the legislature shall prescribe ; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the constitution on the first day of January next after such approval. Neither the failure of the Attorney-general to render an opinion concerning such a proposed amendment nor his failure to do so timely shall affect the validity of such proposed amendment or legislative action thereon.[1]

Sec. 2. Future constitutional conventions ; how called ; election of delegates ; compensation ; quorum ; submission of amendments ; officers ; employees ; rules ; vacancies. At the general election to be held in the year nineteen hundred fifty-seven, and every twentieth year thereafter, and also at such times as the legislature may by law provide, the question "Shall there be a convention to revise the constitution and amend the same ?" shall be submitted to and decided by the electors of the state ; and in case a majority of the electors voting thereon shall decide in favour of a convention for such purpose, the electors of every senate district of the state, as then organized shall elect three delegates at the next ensuing general election, and the electors of the state voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the Capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been been completed. Every delegate shall receive for his services the same compensation as shall then be annually

[1] Amended 1941.

payable to the members of the assembly and be reimbursed for actual travelling expenses, while the convention is in session, to the extent that a member of the assembly would then be entitled thereto in the case of a session of the legislature. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the ayes and noes being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal, proceedings and other expenses of said convention. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution of constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the state at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendment, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

Sec. 3. Amendments simultaneously submitted by convention and legislature. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the legislature, coincidently submitted to the people for approval shall, if approved, be deemed to supersede the amendment so proposed by the legislature.

NORTH CAROLINA

Article XIII. Amendments

Sec. 1. *Convention, how called.* No convention of the people of this State shall ever be called by the General Assembly unless by the concurrence of two-thirds of all the members of each House of the General Assembly, and except the proposition, convention or no convention, be first submitted to the qualified voters of the whole State, at the next general election, in a manner to be prescribed by law. And should a majority of the votes cast be in favour of said convention, it shall assemble on such day as may be prescribed by the General Assembly.

Sec. 2. How the constitution may be altered. No part of the Constitution of this State shall be altered unless a bill to alter the same shall have been agreed to by three-fifths of each House of the General Assembly. And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole State, in such manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become a part of the Constitution of this State.

NORTH DAKOTA

Article XV. Future Amendments

Sec. 202. *Procedure.* Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house, it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this constitution.

Amendments to the constitution of the state may also be proposed by an initiative petition of the electors; such petition shall be signed by twenty thousand electors at arge and shall be filed with the Secretary of State at least one hundred twenty days prior to the election at which they are to be voted upon, and any amend-

ment, or amendments so proposed, shall be submitted to the electors and become a part of the constitution, if a majority of the votes cast thereon are affirmative. All provision of the constitution relating to the submission and adoption of measures by initiative petition, and on referendum petition shall apply to the submission and adoption of amendments to the constitution of the state.[1]

OHIO[2]

Article XIV. Amendments

Sec. 1. *This constitution may be amended and how.* Either branch of the General Assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the ayes and noes, and shall be submitted to the electors, for their approval or rejection, on a separate ballot without party designation of any kind, at either a special or a general election as the general assembly may prescribe. Such proposed amendments shall be published once a week for five consecutive weeks preceding such election, in at least one newspaper in each county of the state, where a newspaper is published. If the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

Sec. 2. *Same subject.* Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they shall recommend to the electors to vote on a separate ballot without party designation of any kind at the next election for members to the General Assembly, for or against a convention; and if a majority of all the electors, voting for and against

[1] Amended 1914 (art. 16) and 1918 (art. 28)

[2] Amended 1912.

the calling of a convention, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. Candidates for members of the constitutional convention shall be nominated by nominating petitions only and shall be voted for upon one independent and separate ballot without any emblem or party designation whatever. The convention shall consist of as many members as the house of representatives, who shall be chosen as provided by law, and shall meet within three months after their election, for the purpose, aforesaid.

Sec. 3. *Same subject.* At the general election to be held in the year one thousand nine hundred and thirty-two and in each twentieth year thereafter, the question : "Shall there be a convention to revise, alter, or amend the constitution", shall be submitted to the electors of the state; and in case a majority of the electors, voting for and against the calling of a convention, shall decide in favour of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

OKLAHOMA

Article XXIV. Constitutional Amendments

Sec. 1 *Amendments proposed by legislature; submission to vote.* Any amendment or amendments to this Constitution may be proposed in either branch of the Legislature, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the ayes and noes thereon, be entered in their journals and referred by the Secretary of State to the people for their approval or rejection, at the next regular general election, except when the Legislature, by a two-thirds vote of each house, shall order a special election for that purpose. If a majority of all the electors voting at such election shall vote in favour of any amendment thereto, it shall thereby become a part of this Constitution.

If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately.

No proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this Constitution by articles, which embrace one general subject, each proposed article shall be deemed a single proposal or proposition.[1]

Sec. 2. *Constitutional convention to propose amendments or new constitution.* No convention shall be called by the Legislature to propose alterations, revisions, or amendments to this Constitution, or to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election, and any amendments, alterations, revisions, or new Constitution, proposed by such convention, shall be submitted, to the electors of the State at a general or special election and be approved by a majority of the electors voting thereon, before the same shall become effective : provided, that the question of such proposed convention shall be submitted to the people at least once in every twenty years.

Sec. 3. *Right of amendment by initiative petition not impaired.* This article shall not impair the right of the people to amend this Constitution by a vote upon an initiative petition therefor.

OREGON

Article XVII. Amendments and Revisions[2]

Sec. 1. *Method of amending constitution.* Any amendment or amendments to this Constitution may be proposed in either branch of the Legislative Assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two

1 Amended 1952.

2. The article heading was amended in 1960.

houses, such proposed amendment or amendments shall, with the ayes and noes thereon, be entered in their journals and referred by the Secretary of State to the people for their approval or rejection, at the next regular general election, except when the Legislative Assembly shall order a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favour thereof, it shall thereby become a part of this Constitution. The votes for and against such amendment, or amendments, severally, whether proposed by the Legislative Assembly or by initiative petition, shall be canvassed by the Secretary of State in the presence of the governor, and if it shall appear to the governor that the majority of the votes cast at said election on said amendment, or amendments, severally, are cast in favour thereof, it shall be his duty forthwith after such canvass, by his proclamation, to declare the said amendment, or amendments, severally, having received said majority of votes to have been adopted by the people of Oregon as part of the Constitution thereof, and the same shall be in effect as a part of the Constitution from the date of such proclamation. When two or more amendments shall be submitted in the manner aforesaid to the voters of this state at the same election, they shall be so submitted that each amendment shall be voted on separately. No convention shall be called to amend or propose amendments to this Constitution, or to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular general election. This article shall not be construed to impair the right of the people to amend this Constitution by vote upon an initiative petition therefore.[1]

Sec. 2. *Method of revising constitution.* (1) In addition to the power to amend this Constitution granted by section 1, Article IV, and section 1 of this Article, a revision of all or part of this Constitution may be proposed in either house of the Legislative Assembly and, if the proposed revision is agreed to by at least two-thirds of all the members of each house, the proposed revision shall, with the ayes and noes thereon, be entered in their journals and referred by the Secretary of State to the people for their

[1] Amended 1906.

approval or rejection, notwithstanding section 1, Article IV of this Constitution, at the next regular state-wide primary election, except when the Legislative Assembly orders a special election for that purpose. A proposed revision may deal with more than one subject and shall be voted upon as one question. The votes for and against the proposed revision shall be canvassed by the Secretary of State in the presence of the Governor and, if it appears to the Governor that the majority of the votes cast in the election on the proposed revision are in favour of the proposed revision, he shall, promptly following the canvass, declare, by his proclamation, that the proposed revision has received a majority of votes and has been adopted by the people as the Constitution of the State of Oregon or as a part of the Constitution of the State of Oregon, as the case may be. The revision shall be in effect as the Constitution or as a part of this Constitution from the date of such proclamation.

(2) Subject to subsection (3) of this section, an amendment proposed to the Constitution under section 1, Article IV, or under section 1 of this Article may be submitted to the people in the form of alternative provisions so that one provision wil become a part of the Constitution if a proposed revision is adopted by the people and the other provision will become a part of the Constitution if a proposed revision is rejected by the people. A proposed amendment submitted in the form of alternative provisions as authorized by this subsection shall be voted upon as one question.

(3) Subsection (2) of this section applies only when :

(a) The Legislative Assembly proposes and refers to the people a revision under subsection (1) of this section : and

(b) An amendment is proposed under section 1, Article IV, or under section 1 of this Article ; and

(c) The proposed amendment will be submitted to the people at an election held during the period between the adjournment of the legislative session at which the proposed revision is referred to the people and the next regular legislative session.[1]

[1] The original section 2 was repealed in 1906. This section was added in 1960.

PENNSYLVANIA

Article XVIII. Future Amendments

Sec. 1. *How consititution may be amended.* Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and, if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their journals with the ayes and noes taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid; and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time at least three months after being so agreed to by the two Houses. as the General Assembly shall prescribe; and, if such amendment or amendments shall be approved by a majority of those voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or amendments shall be submitted oftener than once in five years. When two or more amendments shall be submitted they shall be voted upon separately.

RHODE ISLAND

Article XIII. Of Amendments

The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the Secretary of State, with the names of all the members who shall have voted thereon, with the ayes and noes, to all the town and city clerks in the state. The said propositions shall

be, by said clerks; inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read the said propositions to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the ayes and noes, before the election of senators and representatives shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and submitted to the electors in the mode provided in the act of approval, and if then approved by three-fifths of the electors of the state present and voting thereon in town and ward meetings, it shall become a part of the constitution of the state.

SOUTH CAROLINA

Article XVI. Amendment and Revision of the Constitution

Sec. 1. *Amendments.* Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the Journals respectively, with the ayes and noes taken thereon; and the same shall be submitted to the qualified electors of the State, at the next general election thereafter for Representatives; and if a majority of the electors qualified to vote for members of the General Assembly, voting thereon, shall vote in favour of such amendment or amendments, and a majority of each branch of the next General Assembly shall, after such an election, and before another, ratify the same amendment or amendments, by ayes and noes, the same shall become part of the Constitution: provided that such amendment or amendments shall have been read three times, on three several days, in each House.

Sec. 2. *Two or more.* If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Sec. 3. *Constitutional convention.* Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for Representatives ; and if a majority of all electors voting at said election have voted for a Convention, the General Assembly shall, at its next session, provide by law for calling the same ; and such Convention shall consist of a number of members equal to that of the most numerous branch of the General Assembly.

SOUTH DAKOTA

Article XXIII. Amendments and Revisions of the Constitution

Sec. 1. *Amendments to constitution.* Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution : provided, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide ; and provided, further, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

Sec. 2. *Conventions to revise constitution.* Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution, they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next

session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

TENNESSEE

Article XI. Miscellaneous Provisions

Sec. 3. Amendments to the constitution, etc.; not oftener than once in six years; but legislature may at any time submit question of calling convention. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of all the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their Journals with the ayes and noes thereon, and referred to the General Assembly then next to be chosen; and shall be published six months previous to the time of making such choice; and if in the General Assembly then next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the General Assembly shall prescribe. And if the people shall approve and ratify such amendment or amendments by a majority of all the citizens of the State voting for Representatives, voting in their favour, such amendment or amendments shall become part of this Constitution. When any amendment or amendments to the Constitution shall be proposed in pursuance of the foregoing provisions the same shall at each of the said sessions be read three times on three several days in each House. The Legislature shall not propose amendments to the Constitution oftener than once in six years. The Legislature shall have the right, at any time by law, to submit to the people the question of calling a Constitution to alter, reform or abolish this Constitution, and when upon such submission, a majority of all the votes cast shall be in favour of said proposition, then delegates shall be chosen, and the Conven-

tion shall assemble in such mode and manner as shall be prescribed.[1]

TEXAS

Article XVII. Mode of Amending the Constitution of the State

Sec. 1. *How the constitution is to be amended.* The Legislature at any biennial session, by a vote of two-thirds of all the members elected to each House, to be entered by ayes and noes on the journals, may propose amendments to the Constitution, to be voted upon by the qualified electors for members of the Legislature, which proposed Amendments shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the Legislature, in one weekly newspaper of each county, in which such a newspaper may be published; and it shall be the duty of the several returning officers of said election, to open a poll for, and make returns to the Secretary of State, of the number of legal votes cast at said election for and against said amendments; and if more than one be proposed, then the number of votes cast for and against each of them; and if it shall appear from said return, that a majority of the votes cast, have been cast in favour of any amendment, the said amendment so receiving a majority of the votes cast, shall become a part of this Constitution, and proclamation shall be made by the Governor thereof.

UTAH

Article 23. Amendments

Sec. 1. *Amendments*; method of proposal and approval. Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favour thereof, such proposed amendment or amendments shall be entered on their respective journals with the ayes and noes taken thereon; and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a news-

[1] See Amendments, No. 1.

paper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State, for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution. If two or more amendments are proposed, they shall be submitted as to enable the electors to vote on each of them separately.

Sec. 2. *Revision of the constitution by convention.* Whenever two-thirds of the members, elected to each branch of the Legislature, shall deem it necessary to call a convention to revise or amend this Constitution, they shall recommend to the electors to vote at the next general elections, for or against a convention, and, if a majority of all the electiors, voting at such election, shall vote for a convention, the Legislature, at its next session, shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the Legislature.

Sec. 3. *Submission to electors.* No Constitution, or amendments adopted by such convention, shall have validity until submitted to and adopted by majority of the electors of the State voting at the next general election.

VERMONT

Amendment of the Constitution

Sec. 68. *Amending constitution.* At the fifth biennial session of the General Assembly of this State following that of A.D. 1910, and at the session thereof every tenth year thereafter, the Senate may, by a vote of two-thirds of its members, make proposals of amendment to the Constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the House of Representatives, shall be entered on the journals of the two Houses, and referred to the General Assembly then next to be chosen, and be published in the principal newspapers of the State; and if a majority of the members of the Senate and of the House of Representatives of the next following General Assembly shall respectively concur in the same proposals of amendment, or any

of them, it shall be the duty of the General Assembly to submit the proposals of amendment so concurred into a direct vote of the freemen of the State; and such of said proposals of amendment as shall receive a majority of the votes of the freemen voting thereon shall become a part of the Constitution of this State.

The General Assembly shall direct the manner of voting by the people upon the proposed amendments, and enact all such laws as shall be necessary to procure a free and fair vote upon each amendment proposed, and to carry into effect all the provisions of this section.[1]

VIRGINIA

Article XV. Future Changes in the Constitution

Sec 196. *Amendments.* Any amendment or amendments to the Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates, and shall be published for three months previous to the time of such election. If, at such regular session or any subsequent extra session of that General Assembly the proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the G neral Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as it shall prescribe ; and if the people shall approve and ratify such amendment or amendments by a majority of the electors, qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become part of the Constitution.

Sec. 197. *Constitutional convention; how called.* At such time as the General Assembly may provide, a majority of the members elected to each House being recorded in the affirmative,

[1] Amended 1870.

the question "Shall there be a Convention to revise the Constitution and amend the same ?" shall be submitted to the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting thereon, shall vote in favour of a Convention for such purpose, the General Assembly, at its next session, shall provide for the election of delegates to such Convention; and no convention for such purpose shall be otherwise called.

WASHINGTON

Article XXIII. Amendments

Sec. 1. *How made.* Any amendment or amendments to this Constitution may be proposed in either branch of the legislature; and if the same shall be agreed to by two-thirds of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes thereon, and be submitted to the qualified electors of the State for their approval, at the next general election; and if the people approve and ratify such amendment or amendments, by a majority of the electors voting thereon, the same shall become part of this Constitution, and proclamation thereof shall be made by the Governor: provided, that if more than one amendment be submitted, they shall be submitted in such a manner that the people may vote for or against such (each) amendment separately. The legislature shall also cause the amendments that are to be submitted to the people to be published for at least three months next preceding the election, in some weekly newspaper, in every county where a newspaper is published throughout the State.

Sec. 2. *Constitutional Conventions.* Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a Convention to revise or amend this Constitution, they shall recommend to the electors to vote at the the next general election, for or against a Convention, and if a majority of all the electors voting at the said election shall have voted for a Convention, the legislature shall at the next session,

provide by law for calling the same ; and such Convention shall consist of a number of members, not less than that of the most numerous branch of the legislature.

Sec 3. *Submission to the people.* Any Constitution adopted by such convention shall have no validity until it has been submitted to and adopted by the people

WEST VIRGINIA

Article XIV. Amendments

1. *Constitutional Convention.* No Convention shall be called, having the authority to alter the Constitution of the State, unless it be in pursuance of law, passed by the affirmative vote of a majority of the members elected to each House of the Legislature and providing that polls shall be opened throughout the State, on the same day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a Convention And such Convention shall not be held unless a majority of the votes cast at such polls be in favour of calling the same ; nor shall the members be elected to such Convention, until, at least, one month after the result of the vote shall be duly ascertained, declared and published. And all Acts and Ordinances of the said Convention shall be submitted to the voters of the State for ratification or rejection, and shall have no validity whatever until they are ratified.

2. *How amendments are made.* Any amendment to the Constitution of the State may be proposed in either House of the Legislature ; and if the same, being read on three several days in each House, be agreed to on its third reading by two-thirds of the members elected thereto, the proposed amendment, with the ayes and noes thereon, shall be entered on the journals, and it shall be the duty of the Legislature to provide by law, for submitting the same to the voters of the State for ratification or rejection at the next general election thereafter, and cause the same to be published, at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the

polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment.[1]

WISCONSIN

Article XII. Amendments

Sec. 1. *Constitutional amendments.* Any amendment or amendments to this constitution may be proposed in either House of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election ; and if, in the legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe ; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the Constitution ; provided, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

Sec. 2. *Constitutional Conventions.* If at any time a majority of the Senate and Assembly shall deem it necessary to call a Convention to revise or change this Constitution, they shall recommend

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[1] Amended 1960.

to the electors to vote for or against a Convention at the next election for members of the legislature. And if it shall appear that a majority of the electors voting thereon have voted for a Convention the legislature shall, at its next session, provide for calling such Convention.

WYOMING

Article XX. Amendments

Sec. 1. *Procedure for amendments.* Any amendment or amendments to this Constitution may be proposed in either branch of the legislature, and, if the same shall be agreed to by two-thirds of all the members of each of the two Houses, voting separately, such proposed amendment or amendments shall, with the ayes and noes thereon, be entered on their journals, and it shall be the duty of the legislature to submit such amendment or amendments to the electors of the State at the next general election, and cause the same to be published without delay for at least twelve consecutive weeks, prior to said election, in at least one newspaper of general circulation, published in each county, and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.

Sec. 2. *How voted for.* If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.

Sec. 3. *Constitutional Convention; provision for.* Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a Convention to revise or amend this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention, and if a majority of all the electors voting at such election shall have voted for a Convention, the legislature shall at the next session provide by law for calling the same; and such Convention shall consist of a number of members, not less than double that of the most numerous branch of the legislature.

Sec. 4. *New Constitution.* Any Constitution adopted by such Convention shall have no validity until it has been submitted to and adopted by the people.

B. Text of Official Constitution Amendment Bills with Statement of Objects and Reasons (Discussed)

THE CONSTITUTION FIRST AMENDMENT) BILL, 1951

(Bill No. 48 of 1951)

(As introduced in Parliament (Provisional) on 12th May, 1951)

A Bill to amend the Constitution of India.

1. **Short title.**—This Act may be called the Constitution (First Amendment) Act, 1951.

2. **Amendment of article 15.**—In clause (3) of article 15 of the Constitution, after the word "children" the words "or for the educational, economic or social advancement of any backward class of citizens" shall be added.

3. **Amendment of article 19 and validation of certain laws.**—(1) In article 19 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, and the said clause shall be deemed to have been originally enacted in the following form, namely :

"(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, restrictions on the exercise of the right conferred by the said sub-clause, and, in particular nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, contempt of court, defamation or incitement to an offence."

(b) in clause (6), for the words beginning with the words "nothing in the said sub-clause" and ending with the words

'occupation, trade or business", the following shall be substituted, namely :

"nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void, or ever to have become void, on the ground only that, being a law which takes away or a bridges the right conferred by sub-clause (a) of clause (1) of the said article, its operation was not saved by sub-clause (2) of that article as originally enacted, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, every such law shall continue in force until altered or repealed by a competent Legislature or other competent authority.

Explanation.—In this sub-section, the expression "law in force" has the same meaning as in clause (1) of article 13 of the Constitution.

4. Insertion of new article 31A.—After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to been inserted, namely :

"**31A.** *Saving of laws providing for acquisition of estates, etc.*—(1) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with,

or takes away or abridges any of the rights conferred by, any provisions of this Part.

(2) In this article,—

(a) the expression "estate" shall, in relation to any local area, have the same meaning as in the existing law relating to land tenures in force in that area ;

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure holder or other intermediary and any rights or privileges in respect of land revenue."

5. **Insertion of new article 31B.**—After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely.—

"**31B.** *Validation of certain Acts.*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts shall continue in force until altered or repealed by a competent Legislature."

6. **Amendment of article 85.**—For article 85 of the Constitution, the following article shall be substituted, namely :

"85. *Sessions of Parliament. prorogation and dissolution.*—

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

(2) The President may from time to time—

(a) prorogue the Houses or either House ;

(b) dissolve the House of the People."

7. Amendment of article 87.—In article 87 of the Constitution—(1) in clause (1), for the words "every session" the words "the first session of each year" shall be substituted ;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

8. Amendment of article 174.—For article 174 of the Constitution, the following article shall be substituted, namely :—

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

(2) The Governor may from time to time—

(a) prorogue the Houses or either House ;

(b) dissolve the Legislative Assembly."

9. Amendment of article 176.—In article 176 of the Constitution :

(1) in clause (1), for the words "every session" the words "the first session of each year" shall be substituted ;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House shall be omitted.

10. Amendment of article 341.—In clause (1) of article 341 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respct to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

12. Amendment of article 342.—In clause (1) of the article 342 of the Constitution, for the words "may, after consultation with the Governor of Rajpramukh of a State," the words "may with respect of any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

12. Amendment of article 372.—In sub-clause (a) of clause (3) of article 372 of the Constitution, for the words "two years" the words "three years" shall be substituted.

13. Amendment of article 376.—At the end of clause (1) of article 376 of the Constitution, the following shall be added, namely :

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court or of the Supreme Court".

14. Addition of Ninth Schedule.—After the Eighth, Schedule to the Constitution, the following Schedule shall be added, namely :

"NINTH SCHEDULE

(Article 31B)

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).

2. The Bombay Tenancy and Agricultural Lands Act, 1949 (Bombay Act LXVII of 1948).

3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).

4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).

5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).

6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).

7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).

8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).

9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).

10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).

11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951)".

STATEMENT OF OBJECTS AND REASONS

During the last fifteen months of the working of the Constitution, certain difficulties have been brought to light by judicial decisions and pronouncements specially in regard to the chapter on fundamental rights. The citizen's right to freedom of speech and expression guaranteed by article 19(1)(a) has been held by some courts to be so comprehensive as not to render a person culpable even if he advocates murder and other crimes of violence. In other countries with written Constitutions, freedom of speech and of the press is not regarded as debarring the State from punishing or preventing abuse of this freedom. The citizen's right to practise any profession or to carry on any occupation, trade or business conferred by article 19(1)(g) is subject to reasonable restrictions which the laws of the State may impose "in the interests of the general public". While the words cited are comprehensive enough to cover any scheme of nationalisation which the State may undertake, it is desirable to place the matter beyond doubt by a clarificatory addition to article 19(6). Another article in regard to which unanticipated difficulties have arisen is article 31. The validity of agrarian reform measure passed by the State Legislatures in the last three years has, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject-matter of dialatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people, has been held up.

The main objects of this Bill are, accordingly, to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain special State Acts in parti-

cular. The opportunity has been taken to propose a few minor amendments to other articles in order to remove difficulties that may arise.

It is laid down in article 46 as a directive principle of policy that the State should promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice. In order that any special provision that the State may make for the educational, economic or social advancement of any backward class of citizens may not be challenged on the ground of being discriminatory, it is proposed that article 15(3) should be suitably amplified. Certain amendments in respect of article dealing with the convening and proroguing of the sessions of Parliament have been found necessary and are also incorporated in this Bill. So also a few minor amendments in respect of articles 341, 342, 372 and 376.

New Delhi ;

The 10th May, 1951. JAWAHARLAL NEHRU

THE CONSTITUTION (SECOND AMENDMENT) BILL, 1952

(Bill No. 54 of 1952)

(As introduced in the Lok Sabha on 18th June, 1952)

A Bill further to amend the Constitution of India.

Be it enacted by Parliament as follows :

1. **Short title.**—This Act may be called the Constitution (Second Amendment) Act, 1952.

2. **Amendment of article 81.**—In sub-clause (b) of clause (1) of article 81 of the Constitution, for the figures '750,000' the figures '850,000' and for the figures '500,000' the figures '650,000' shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 81(1)(a) prescribes an absolute limit of 500 elected members in the House of the People. Article 81(1)(b) provides that the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each

such constituency shall be so determined as to ensure that there shall not be less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population.

The present delimitation of parliamentary and assembly constituencies is based on the estimates of populations which have been given legal validity by an order of the President under article 387 of the Constitution. Article 81(3) of the Constitution, however, requires that upon the completion of each census, the representation of the several territotial constituencies in the House of the People and the Legislative Assemblies of each State shall be re-adjusted by such authority, in such manner and with effect from such date as Parliament may by law determine. A Bill providing for the matters referred to in that article is being introduced in Parliament. Provision has been made in that Bill for the setting up of a Delimitation Commission for the purpose of effecting re-adjustment of the representation in the House of the People and in the State Legislative Assemblies on the basis of the population as ascertained at the census of 1951.

There is a considerable difference between the population of the several States as estimated in the President's Order and in the population as ascertained at the census of 1951. At present seats have been allotted to the House of the People to Part A and Part B States on the basis of one member for every 7.2 lakhs of the estimated population giving a total of 470 members to these States. The census figures are higher in all the cases, and in view of the overall limit of 500 members prescribed in article 81(1)(a), it is not possible to increase appreciably the total number of seats allotted to these States. It is accordingly necessary to reduce the representation from one member for every 7.2 lakhs of population to one member for every 7.5 lakhs of population as per 1951 census. As pointed out above, this figure 7.5 lakhs is the maxium permissible under article 81(1)(b) as it now stands ; but even so, if the average population of a parliamentary constituency in any State is to be 750,000, it is obvious that the population of a certain number of constituencies will exceed that figure. It is necessary, therefore, that article 81(1)(b) should

be amended relaxing the limits prescribed in that article so as to avoid a constitutional irregularity in delimiting the constituencies for the purpose of readjustment of representation in the House of the People as required under article 81(3) of the Constitution. This Bill accordingly seeks to amend article 81(1)(b) of the Constitution so as to replace the figures mentioned in that article by the figures 850,000 and 650,000 respectively.

THE CONSTITUTION (THIRD AMENDMENT) BILL, 1954

(Bill No. 40 of 1954)

(As introduced in the Lok Sabha on 6th September, 1954)

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the fifth year of the Republic of India as follows :

1. **Short title.**—This Act may be called the Constitution (Third Amendment) Act, 1954.

2. **Amendment of the Seventh Schedule.**—In the Seventh Schedule to the Constitution, for entry 33 of List III, the following entry shall be substituted, namely :

"33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry the control of which by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products ;

(b) foodstuffs, including edible oilseeds and oils ;

(c) cattle fodder, including oilcakes and other concentrates ;

(d) raw cotton, whether ginned or unginned, and cotton seed ; and

(e) raw Jute."

STATEMENT OF OBJECTS AND REASONS

While trade and commerce within the State, and production, supply and distribution of goods in general are within the legis-

lative and executive authority of the States, Parliament is competent by virtue of entry 33 of List III, to legislate in respect of products of industries declared to be under Union control. In addition, Parliament is empowered by article 369, for a period of five years from the commencement of the Constitution, to legislate in respect of certain specified essential commodities. Some of these, like cotton and woollen textiles, paper, coal, iron and steel, being products of industries under Union control, could continue to be regulated by central legislation even after article 369 lapses on the 25th January, 1955. Other essential commodities, like foodstuffs, cattle fodder, raw cotton and cotton seed, would after that date be outside the legislative authority of Parliament.

The position in respect of foodstuffs and cattle fodder at present is fairly comfortable, but it will not be advisable for the Centre to be divested of all legal powers to control their production, supply and distribution. Cotton, the basic raw material for one of our largest industries, is in short supply in the sense that our own production is not sufficient for our needs. Since jute goods are the most important item in our export trade it is desirable that the Centre should have the power to control the production, supply and distribution of raw jute.

The Bill accordingly proposes an amplification of entry 33 of List III in the Seventh Schedule to the Constitution. Besides placing four classes of essential commodities in that entry, it is proposed to include also imported goods of the same kind as the products of centralised industries, in order that the Centre may be in a position to exercise full control over the development of such industries.

New Delhi ;

The 31st August, 1954. T. T. KRISHNAMACHRI

THE CONSTITUTION (FOURTH AMENDMENT) BILL, 1954

(Bill No. 64 of 1964)

(As introduced in the Lok Sabha on 20th December, 1954)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Fourth Amendment) Act, 1954.

2. **Amendment of article 31.**—In article 31 of the Constitution, for clause (2), the following clause shall be substituted, namely :

"(2) No property shall be compulsorily acquired or requisitioned by the State save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State, it shall be deemed to provide for the compulsory acquisition or requisitioning of property by the State, notwithstanding that it deprives any person of his property.

3. **Amendment of article 31A.**—In article 31A of the Constitution,—

(a) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely :

"(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein, or

(b) the extinguishment or modification of any rights in estates or in agricultural holdings or

(c) the maximum extent of agricultural land that may be owned or occupied by any person and the disposal of any agricultural land held in excess of such maximum, whether by transfer to the State or otherwise, or

(d) the acquisition or requisitioning of any immovable property for the relief or rehabilitation of persons displaced from their original place of residence by reason

of the setting up of the Dominion of India and Pakistan, or

(e) the acquisition or requisitioning for a public purpose of any land, buildings or huts declared in pursuance of law to constitute a slum or of any vacant or waste land, or

(f) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(g) the transfer of any undertaking, wholly or in part, from one company to another or the amalgamation of two or more companies either in the public interest or in order to secure the proper management of the undertaking or of any of the companies, or,

(h) the ext nguishment or modification of any rights of managing agents, managing directors, directors, managers or shareholders of companies, or

(i) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or for the purpose of supplying power, light or water to the public, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31.

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent" ; and

(b) in sub clause (b) of clause (2)—

(i) after the words "an estate" the words "or agricultural holding" shall be, and shall be deemed always to have been inserted ; and

(ii) after the word "tenure-holder" the words "raiyat, under-raiyat" shall be, and shall be deemed always to have been inserted.

4. **Amendment of article 305**—For article 305 of the Constitution the following article shall be substituted, namely :

"305 Saving of existing laws and laws providing for State monopolies. Nothing in articles 301 and 303 shall affect the provisions of any existing law ; and nothing in article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1954, in so far as it relates to, or prevent Parliament or the Legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (ii) of clause (6) of article 19."

5. **Amendment of the Ninth Schedule**—In the Ninth Schedule to the Constitution, after entry 13, the following entries shall be added, namely :

"14. The Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950 (Bihar Act XXXVIII of 1950).

15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U.P. Act XXVI of 1948).

16. The Resettlement of Displaced Persons (Land Acquisition) Act. 1948 (Act LX of 1948).

17. Sections 52A to 52G of the Insurance Act, 1938, as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).

18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953)."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend articles 31, 31A and 305 of, and the Ninth Schedule to the Constitution.

2. Recent decisions of the Supreme Court have given a very wide meaning to clauses (1) and (2) of article 31. Despite the difference in the wording of the two clauses, they are regarded as dealing with the same subject. The deprivation of property referred to in clause (1) is to be construed in the widest sense as including any curtailmant of a right to property. Even where it is caused by a purely regulatory provision of law and is not accompanied by an acquisition or taking possession of that or any other property right by the State, the law, in order to be valid according to these decisions, has to provide for compensation under clause (2), of the article. It is considered necessary, therefore, to re-state more precisely the State's power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State results in "deprivation of property". This is sought to be done in clause 2 of the Bill.

3. It will be recalled that the zamindari abolition laws which came first in our programme of social welfare legislation were attacked by the interests affected mainly with reference to articles 14, 19 and 31, and that in order to put an end to the dilatory and wasteful litigation and place these laws above challenge in the courts, aritcles 31A and 31B and the Ninth Schedule were enacted by the Constitution (First Amendment) Act. Subsequent judicial decisions interpreting articles 14, 19 and 31 have raised serious difficulties in the way of the Union and the States putting through other and equally important social welfare legislation on the desired lines, e.g., the following :

(i) While the abolition of zamindaries and the numerous intermediaries between the State and the tiller of the soil has been achieved for the most part, our next objectives in land reform are the fixing of limits to the extent of agricultural land that may be owned or occupied by any person, the disposal of any land held in excess of the prescribed maximum and the further modification of the rights of land owners and tenants in agricultural holdings.

(ii) The proper planning of urban and rural areas require the beneficial utilisation of vacant and waste lands and the clearance of slum areas.

(iii) In the interests of national economy the State should have full control over the mineral and oil resources of the country, including in particular, the power to cancel or modify the terms and conditions of prospecting licences, mining leases and similar agreements. This is also necessary in relation to public utility undertakings which supply power, light or water to the public under licences granted by the State.

(iv) It is often necessary to take over under State management for a temporary period a commercial or industrial undertaking or other property in the public interest or in order to secure the better management of the undertaking or property. Laws providing for such temporary transference to State management should be permissible under the Constitution.

(v) The reforms in company law now under contemplation, like the progressive elimination of the managing agency system, provision for the compulsory amalgamation of two or more companies in the national interest, the transfer of an undertaking from one company to another, etc., require to be placed above challenge.

It is accordingly proposed in clause 3 of the Bill to extend the scope of article 31A so as to cover these categories of essential welfare legislation.

4. As a corollary to the proposed amendment of article 31A, it is proposed in clause 5 of the Bill to include in the Ninth Schedule to the Constitution two more State Acts and four Central Acts which fall within the scope of sub-clauses (d) and (f) of clause (1) of the revised article 31A. The effect will be their complete, retrospective validation under the provisions of article 31B.

5. A recent jundgment of the Supreme Court in Saghir Ahmed v. the State of U.P. has raised the question whether an Act providing for a State monopoly in a particular trade or business conflicts with the freedom of trade and commerce guaranteed by article 301, but left the question undecided. Clause (6) of article 19 was amended by the Constitution (First Amendment) Act in order to take such State monopolies out of the purview of sub-clause (g) of clause (1) of that article, but no corresponding

provision was made in Part XIII of the Constitution with reference to the opening words of article 301. It appears from the judgment of the Supreme Court that notwithstanding the clear authority of Parliament or of a State Legislature to introduce State monopoly in a particular sphere of trade or commerce, the law might have to be justified before the courts as being "in the public interest" under article 301 or as amounting to a "reasonable restriction" under article 304 (b). It is considered that any such question ought to be left to the final decision of the Legislature. Clause 4 of the Bill accordingly proposes an amendment of article 305 to make this clear.

NEW DELHI,

The 17th December, 1954. JAWAHARLAL NEHRU

THE CONSTITUTION (FIFTH AMENDMENT) BILL, 1955

(Bill No. 73 of 1955)

(As introduced in the Lok Sabha on 9th December, 1955)

A Bill further to amend the Constitution of India.

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

1. Short Title. This Act may be called the Constitution (Eighth Amendment) Act, 1955.

2. Amendment of Article 3. In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely :

"Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired".

STATMENT OF OBJECTS AND REASONS

Under the proviso to article 3 of the Constitution, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State can be introduced in Parliament, unless the views of the State Legislatures concerned with respect to the provisions of the Bill have been ascertained by the President. The intention of this proviso is to ensure that all the States affected by a reorganisation proposal have a reasonable opportunity of expressing their views. It is considered desirable that when a reference is made to the State Legislatures for this purpose, the President should be able to prescribe the period within which the States should convey their views, and it should be open to the President to extend such period whenever he considers it necessary. It is also considered desirable to provide that the Bill shall not be introduced until after the expiry of such period. It is proposed to amend the proviso to article 3 of the Constitution accordingly.

New Delhi,
The 6th December, 1955. C.C. BISWAS

THE CONSTITUTION (SIXTH AMENDMENT) BILL, 1956

(Bill No. 35 of 1956)

(*As introduced in the Lok Sabha as the Constitution* (*Tenth Amendment*) *Bill, 1956* (*on 3rd May, 1956*).

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Tenth Amendment) Act, 1956.

2. **Amendment of the Seventh Schedule.** In the Seventh Schedule to the Constitution :

(a) in the Union List, after entry 92, the following entry shall be inserted, namely :

"92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce."; and

(b) in the State List, for entry 54, the following entry shall be substituted, namely :

"54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List 1."

3. **Amendment of Article 269.** In article 269 of the Constitution :

(a) in clause (1), after sub-clause (f), the following sub-clause shall be inserted, namely :

"(g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce."; and

(b) after clause (2), the following clause shall be inserted, namely :

"(3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce."

4. **Amendment of article 286.** In article 286 of the Constitution :

(a) in clause (1), the Explanation shall be omitted ; and

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

"(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1) :

(3) Any law of a State shall, in sofaras it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify."

STATEMENT OF OBJECTS AND REASONS

While "taxes on the sale or purchase of goods other than newspapers" is an entry in the State List, article 286 of the Constitution subjects the states' power to impose such taxes to four restrictions, of which two are total and two are partial. Under clause (1) of the article, a State is debarred from imposing such a tax when the sale or purchase takes place outside the State or in the course of import into, or export from, the country. With regard to the first restriction, namely, the non-taxability of sales outside the State, an explanation is given in the clause that "a sale or purchase shall be deemed to have taken place in the State in which goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that state". Then, under clause (2), a state is debarred from imposing the tax on inter-State sales except in so far as Parliament may otherwise provide. Lastly, under clause (3), Parliament is authorised to declare the goods which are essential to the life of the community, and when such a declaration has been made, any law made by a State Legislature imposing a tax on the sale or purchase of those goods has to receive the President's assent or order to be effective.

High judicial authorities have found the interpretation of the article a difficult task and expressed divergent views as to the scope and effect, in particular, of the explanation in clause (1) and of clause (2). The majority view of the Supreme Court in the State of Bombay v. the United Motors (India) Ltd., (1953) S.C.R. 1069, was that sub-clause (a) and the explanation in clause (1) prohibited the taxation of a sale involving inter-State elements by all States except the State in which the goods are delivered for the purpose of consumption therein, and furthermore, that clause (2) did not affect the power of that State to tax the inter-State sale even though Parliament had not made a law removing the ban imposed by that clause. This resulted in dealers resident in one State being subjected to the sales tax jurisdiction and procedure of several other States with which they had dealings in the normal course of their business. Two-and-a-half years later, the second part of this decision was reversed by the Supreme Court in the Bengal Immunity Company Ltd., v. the State of Bihar (1955) S.C.R. 1140 but here too the Court was not unanimous.

In pursuance of clause (3) of the article, Parliament passed an Act in 1952 declaring a number of goods like foodstuffs of various kinds, cloth, raw cotton, cattle feeds, iron and steel, coal, etc., to be essential to the life of the community. Since this declaration could not affect pre-existing State laws imposing sales tax on these goods, the result was a wide disparity from State to State, not only in the range of exempted goods, but also in the rates applicable to them.

The Taxation Enquiry Commission, after examining the problem with great care and thoroughness, have made certain recommendations which may be summarised as follows. In essence, sales tax must continue to be a State source of revenue and its levy and administration must substantially pertain to the State Governments. The sphere of power and responsibility of the State may, however, be said to end, and that of the Union to begin, when the sales tax of one State impinges, administratively on the dealers, and fiscally on the consumers, of another State. Broadly, therefore, inter-State sales should be the concern of the Union, but the responsibilities pertaining to the Union could be exercised through the State Governments, and in any case, the revenue should appropriately devolve on them. Inter-State sales, on the other hand, should be left to the States, but with one important exception. Where, for instance, raw material produced in a State is important from the point of view of the consumer or the industry of another State, certain restrictions have, to be placed on the taxing power of the State Government, as otherwise it can effect an increase in the cost of the manufactured article, whether such manufacture takes place in the State which produces the raw material, or in another State which imports the material from that State. In either case, to the extent that the finished goods are consumed in a State other than the one which taxes the raw material, the increase in cost on account of the tax is a matter of direct concern to the consumer of another State. Such cases of inter-State sales should appropriately be brought under the full control of the Union. These recommendations of the Commission have been generally accepted by all the State Governments.

The object of this Bill is to give effect to the recommenda-

tions of the Commission as regards the amendment of the constitutional provisions relating to sales tax.

In clause 2, it is proposed to add a new entry 92A in the Union List placing taxes on inter-State sales and purchases within the exclusive legislative and executive power of the Union, and to make entry 54 of the State List "subject to the provisions" of this new entry.

In clause 3, it is proposed to add these taxes to the list given in clause (1) of article 269, so that, although they will be levied and collected in accordance with an Act of Parliament, they will not form part of the Consolidated Fund of India, but will accrue to the States themselves in accordance with such principles of distribution as may be formulated by Parliament by law. A further provision is proposed in article 269 expressly empowering Parliament to formulate by law principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.

It is proposed in clause 4 to omit from clause (1) of article 286 the explanation which has given rise to a great deal of legal controversy and practical difficulty. In view of the centralisation of inter-State sales tax proposed in clause 2 of this Bill, Clause (2) of article 286 in its present form will cease to be appropriate. In its place it is proposed to insert a provision empowering Parliament to formulate principles for determining when a sale of purchase of goods takes place (a) outside a State, or (b) in the course of import of the goods into the territory of India or (c) in the course of export of the goods out of the territory of India.

It is further proposed to replace clause (3) of article 286 by a new clause on the lines recommended by the Taxation Enquiry Commission. Under the revised clause Parliament will have the power to declare by law the goods which are of special importance in inter-State trade or commerce and also to specify the restrictions and conditions to which any State law (whether made before or after the Parliamentary law) will be subject in regard to the system of levy, rates and other incidents of the tax on the sale or purchase of those goods.

New Delhi ;
The 30th April, 1956. MANILAL SHAH

THE CONSTITUTION (SEVENTH AMENDMENT) BILL, 1956

(Bill No. 29 of 1956)

(As introduced in the Lok Sabha as The Constitution [Ninth Amendment] Bill, 1956 on 18th April, 1956)

A Bill further to amend the Constitution of India.

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

1. **Short title and commencement** :—(1)This Act may be called the Constitution (Ninth Amendment) Act, 1956.

(2) It shall come into force on the 1st day of October, 1956.

2. **Amendment of article 1 and First Schedule**—(1) In article 1 of Constitution,

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

"(2) The States and the territories thereof shall be as specified in the First Schedule" and

(b) in clause (3), for sub-clause (b), the following sub-clause shall be substituted, namely :—

"(b) the Union territories specified in the First Schedule ; and,"

(2) For the First Schedule to the Constitution, the following Schedule shall be substituted, namely :

"FIRST SCHEDULE"

(Articles 1 and 4)

I. THE STATES

	Name	Territories
1.	Andhra-Telangana	The territories specified in subsection (1) of section 3 of the Andhra State, Act, 1953 and the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956.
2.	Assam	The territories which immediately before the commencement of this Constitution were comp-

		rised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries)Act, 1951.
3.	Bihar	The territories which immediatly before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province.
4.	Gujarat	The territories specified in sub-section (1) of section 10 of the States Reorganisation Act, 1956.
5.	Kerala	The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.
6.	Madhya Pradesh	The territories specified in sub-section (1) of sectiod 11 of the States Reorganisation Act, 1956.
7.	Madras	The territories which immediately before the commencement of the Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956.
8.	Maharashtra	The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956.
9.	Mysore	The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956.

10.	Orissa	The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.
11.	Punjab	The territories specified in section 13 of the States Reorganisation Act, 1956.
12.	Rajasthan	The territories specified in section 12 of the States Reorganisation Act, 1956.
13.	Uttar Pradesh	The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province.
14.	West Bengal	The territories which immediately before the commencement of the Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandranagore as defined in clause (c) of section 2 of the Chandranagore (Merger) Act, 1954.
15.	Jammu and Kashmir	The territory which immediately before the commencement of the Constitution was comprised in the Indian State of Jammu and Kashmir.

II. THE UNION TERRITORIES

	Name	Extent
1.	Bombay	The territory specified in section 8 of the States Reorganisation Act, 1956.
2.	Delhi	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.

3.	Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Cheif Commissioners, Provinces under the names of Himachal Pradesh and Bilaspur.
4.	Manipur	The territory which immediately before commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.
5.	Tripura	The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura.
6.	The Andaman and Nicobar Islands	The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.
7.	The Laccadive, Minicoy and Amindivi Islands.	The territory specified in section 6 of the States Reorganisation Act, 1956."

3. **Amendment of article 80 and Fourth Schedule.**—(1) In article 80 of the Constitution—

(a) in sub-clause (b) of clause (1), after the words "States", the words "and of the Union territories" shall be added ;

(b) in clause (2), after the words "of the States, the words "and of the Union territories" shall be inserted ;

(c) in clause (4), the words and letters "specified in Part A or Part B of the First Schedule" shall be omitted ; and

(d) in clause (5), for the words and letter "States specified in Part C of the First Schedule", the words "Union territories" shall be substituted.

(2) For the Fourth Schedule to the Constitution, the following Schedule shall be substituted, namely :

FOURTH SCHEDULE

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

Allocation of seats in the Council of States

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

TABLE

1.	Andhra-Telangana	18
2.	Assam	7
3.	Bihar	23
4.	Gujarat	11
5.	Kerala	9
6.	Madhya Pradesh	16
7.	Madras	17
8.	Maharashtra	17
9.	Mysore	12
10.	Orissa	10
11.	Punjab	11
12.	Rajasthan	10
13.	Uttar Pradesh	34
14.	West Bengal	15
15.	Jammu and Kashmir	4
16.	Bombay	3
17.	Delhi	2
18.	Himachal Pradesh	1
19.	Manipur	1
20.	Tripura	1
		222

4. **Substitution of new articles for articles 81 and 82**—For article 81 and 82 of the Constitution, the following articles shall be substituted, namely :

"81. **Composition of the House of the People**—(1) Subject to the provisions of article 331, the House of the People shall consist of —

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

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

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

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

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

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

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

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

5. **Amendment of article 131**—In article 131 of the Constitution, for the proviso, the following proviso shall be substituted, namely :

"Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement or which provides that the said jurisdiction shall not extend to such a dispute".

6. **Amendment of article 153**—To article 153 of the Constitution, the following proviso shall be added, namely :

"Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States".

7. **Amendment of article 168**—(1) In clause (1) of article 168 of the Constitution, in sub-clause (a), the word "Bombay" shall be omitted and after the word "Madras", the word "Mysore" shall be inserted.

(2) In the said sub-clause, as from such date as the President may, by public notification appoint, after the word "Bihar", the words "Madhya Pradesh" shall be inserted.

8. **Substitution of new article for article 170**—For article 170 of the Constitution, the following article shall be substituted, namely :

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

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

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

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

Provided that such adjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly."

9. **Amendment of article 171**—In clause (1) of article 171 of the Constitution, for the word "one-fourth", the word "one-third" shall be substituted.

10. **Amendment of article 216**—In article 216 of the Constitution, the proviso shall be omitted.

11. **Amendment of article 217**—In article 217 of the Constitution, in clause (1), for words "shall hold office until he attains the age of sixty years", the following words and figures shall be substituted, namely :

"shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years."

12. **Substitution of new article for article 220**—For article 220 of the Constitution, the following article shall be substituted, namely :

"220. **Restriction on practice after being a permanent Judge**—No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority in India except the Supreme Court and the other High Courts."

13. **Amendment of article 222**—In article 222 of the Constitution—

(a) in clause (1), the words "within the territory of India" shall be omitted ; and

(b) clause (2) shall be omitted.

14. **Substitution of new article for article 224**—For article 224 of the Constitution, the following article shall be substituted, namely :

"224 (1) If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for any other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties".

15. **Substitution of new articles for articles 230, 231 and 232**—For articles 230, 231 and 232 of the Constitution, the following articles shall be substituted, namely :

"230. (1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory—

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction ; and

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. **Establishment of a common High Court for two or more States**--(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory.

(2) In relation to any such High Court—

(a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction ;

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts be construed as a reference to the Governor of the State in which the subordinate courts are situated ; and

(c) the reference in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat :

Provided that if such principal seat is in a Union territory, the references in articles 219 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to t he President, Union Public Service Commission, Parliament and Consolidated Fund of India".

16. **Amendment of Part VIII**—In Part VIII of the Constitution,

(a) for the heading "THE STATES IN PART 'C' OF THE FIRST SCHEDULE", the heading "THE UNION TERRITORIES" shall be substituted ; and

(b) for articles 239 and 240, the following articles shall be substituted, namely :

"**239. Administration of Union territories**—Every Union territory shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or other authority to be appointed by him :

Provided that the President may by regulation made under article 240 constitute for any such territory a council of advisers to the Chief Commissioner or other authority with such functions as may be specified in the regulation.

240. Power of President to make regulations for Union territories—The President may make regulations for the peace and good government of any Union territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to any such territory and, when promulgated by the President shall have the same force and effect as an Act of Parliament which applied to such territory."

17. **Insertion of new article 258A**—After article 258 of the Constitution, the following article shall be inserted, namely :

"**258A. Power of the States to entrust functions to the Union**—Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends."

18. **Insertion of new article 290A**—After article 290 of the Constitution, the following article shall be inserted, namely :

"**290A. Annual Payment to the Travancore Davaswom Board**—A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to the Travancore Davaswom Board."

19. **Substitution of new article for article 298**—For article 298 of the Constitution, the following article shall be substituted, namely :

"**298. Power to carry on trade etc.**—The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose :

Provided that—

(a) the said executive power of the Union shall, insofar as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State ; and

(b) the said executive power of each State shall, insofar as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament."

20. **Insertion of new article 350A**—After article 350 of the Constitution, the following article shall be inserted, namely :

"**350 A. Facilities instruction in mother-tongue a primary stage**—It shall be the endeavour of every State and

of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups ; and the President may issue such directions to any Stage as he considers necessary or proper for securing the provision of such facilities."

21. **Substitution of new article for article 371**—For article 371 of the Constitution, the following article shall be substituted, namely :

"371. **Special provision with respect to the States of Andhra-Telangana and Punjab**—Notwithstanding anything in this Constitution, the President may, by order make with respect to the State of Andhra-Telangana or Punjab, provide for the constitution and functions of regional committees of the Legislative Assembly of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of the regional committees."

22. **Amendment of the Second Schedule**—In the Second Schedule to the Constitution—

(a) in the heading of Part D, the words and letter "in States in Part A of the First Schedule" shall be omitted : and

(b) in paragraph 10—

(i) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely :

(1) There shall be paid to the Judges of High Courts, in respect of time spent on actual service, salary at the following rates per mensem, that is to say—

A. In the case of any High Court other than the High Courts of Kerala, Mysore or Rajasthan—

The Chief Justice.....Rs. 4000

Any other Judge.....Rs. 3500

B. In the case of the High Courts of Kerala, Mysore or Rajasthan—

The Chief Justice.....,, 3500

Any other Judge.....,, 2500

Provided that if a Judge of any such High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced by the amount of that pension."

(ii) sub-paragraphs (3) and (4) shall be omitted.

23. **Modification of Entries in the Lists relating to acquisition and requisitioning of property**—In the Seventh Schedule to the Constitution, entry 33 of the Union List and entry 36 of the State List shall be omitted and for entry 42 of the Concurrent List, the following entry shall be substituted, namely :

"42. Acquisition and requisitioning of property."

24. **Amendment of certain provisions relating to ancient historical monuments, etc.**—In each of the following provisions of the Constitution, namely :

(i) entry 67 of the Union List,

(ii) entry 12 of the State List,

(iii) entry 40 of the Concurrent List, and

(iv) article 49,

for the words "declared by Parliament by law", the words "declared by or under law made by Parliament" shall be substituted.

25. **Amendment of entry 24 of State List**—In the Seventh Schedule to the Constitution, in entry 24 of the State List, for the word and figures "entry 52", the words and figures "entries 7 and 52" shall be substituted.

26. **Consequential and minor amendments and repeals and savings**—(1) The consequential and minor amendments and repeals directed in the Schedule shall be made in the Constitution

and in the Constitution (Removal of Difficulties) Order, No. VIII, made under article 392 of the Constitution.

(2) Notwithstanding the repeal of article 243 of the Constitution by the said Schedule, all regulations made by the President under that article and in force immediately before the commencement of this Act shall continue in force until altered or repealed or amended by a competent Legislature or other competent authority.

THE SCHEDULE

(See section 26)

(Consequential and minor amendments and repeals in the Constitution)

Article 3.—In the proviso, omit "specified in Part A or Part B of the First Schedule".

Article 31A.—In sub-clause (a) of clause (2), for "Travancore-Cochin" substitute "Kerala".

Article 58.—In the Explanation, omit "or Rajpramukh or Upa-rajpramukh".

Article 66.—In the Explanation, omit "or Rajpramukh or Upa-rajpramukh".

Article 72.—In clause (3), omit "or Rajpramukh".

Article 73.—In the proviso to clause (1), omit "specified in Part A or Part B of the First Schedule".

Article 101.—In clause (2), omit "specified in Part A or Part B of the First Schedule", and for "such a State" substitute "a State".

Article 112.—In sub-clause (d) (iii) of clause (3), for "a Province corresponding to a State specified in Part A of the First Schedule", substitute "a Governor's Province of the Dominion of India".

Article 151.—In clause (2), omit "or Rajpramukh".

Part VI.—In the heading, omit "IN PART A OF THE FIRST SCHEDULE".

Article 152.—For "means a State specified in Part A of the First Schedule" substitute "does not include the State of Jammu and Kashmir".

Article 203.—Omit "or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article".

Article 208.—Omit clauses (2) and renumber clause (3) as clause (2).

Article 214.—Omit "(1) and clauses (2) and (3).

Article 219.—Omit "in a State".

Article 229.—In the proviso to clause (1) and in the proviso to clause (2), omit "in which the High Court has its principal seat".

Omit Part VII.

Article 241.—(a) In clause (1), for "State specified in Part C of the First Schedule", substitute "Union territory", and for "such State", substitute "such territory".

(b) For clause (3) and (4), substitute—

"(3) Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by or under this Constitution, every High Court exercising jurisdiction immediately before the commencement of the Constitution (Sixth Amendment) Act, 1956, in relation to any Union territory shall continue to exercise such jurisdiction in relation to that territory after such commencement.

(4) Nothing in this article derogates from the power of Parliament to extend or exclude the jurisdiction of a High Court for a State to, or from any Union territory or part thereof".

Omit article 242.

Omit Part IX.

Article 244.—Omit "specified in Part A or Part B of the First Schedule".

Article 246.—In clauses (2) and (3), omit "specified in Part A or Part B of the First Schedule" and in clause (4)' for "in

Part A or Part B of the First Schedule" substitute "in a State".

Article 254.—In clause (2), omit "specified in Part A or Part B of the First Schedule".

Article 255.– Omit "Specified in Part A or Part B of the First Schedule".

Omit article 259.

Article 264.—For article 264, substitute—Interpretation

Article 264.—In this Part "Finance Commission" means a finance commission constituted under article 280".

Article 267.—In clause (2), omit "or Rajpramukh".

Article 268.—In clause (1), for "State specified in Part C of the First Schedule" substitute "Union territory".

Article 269.—In clause (2), for "States specified in Part C of the First Schedule" substitute "Union territory".

Article 270.—In clauses (2) and (3), for "States specified in Part C of the First Schedule" substitute "Union territories".

Omit article 278.

Article 280.—In clause (3), omit sub-clause (c) and re-letter sub-clause (d) as sub-clause (c).

Article 283.—In clause (2), omit "or Rajpramukh".

Article 291.—Omit (1) and clause (2).

Article 299.—In clause (1), omit "or the Rajpramukh", and in clause (2), omit " nor the Rajpramukh".

Omit article 306.

Article 308.—For "means a State specified in Part A or Part B of the First Schedule" substitute "does not include the State of Jammu and Kashmir".

Article 309.—Omit "or Rajpramukh".

Article 310.—In clause (1), omit "or, as the case may be, the Rajpramukh", and in clause (2), omit "or Rajpramukh" and "or the Rajpramukh".

Article 311.—In clause (2), omit "or Rajpramukh".

Article 315.—In clause (4), omit "or Rajpramukh".

Article 316.—In clause (1) and (2), omit "or Rajpramukh".

Article 317.—In clause (2), omit "or Rajpramukh".

Article 318.— Omit "or Rajpramukh".

Article 320.—In clause (3), omit "or Rajpramukh" and "or Rajpramukh" as the case may be". and in clause (5), omit "or Rajpramukh".

Article 323.—In clause (2) omit "or Rajpramukh" and "or "Rajpramukh, as the case may be".

Article 324.—In clause (6), omit "or Rajpramukh".

Article 332.—In clause (1) omit "specified in Part A or Part B of the First Schedule".

Article 333.—Omit "or Rajpramukh".

Article 337.—Omit "specified in Part A or Part B of the First Schedule".

Article 339.—In clause (1), omit "specified in Part A and Part B of the First Schedule" and in clause (2), for "any such State" substitute "a State".

Article 341.—In clause (1), after "any State" insert "or Union territory", omit "specified in Part A or Part B of the First Schedule", omit "or Rajpramukh" and after "that State" insert "or Union territory, as the case may be".

Article 342.—In clause (1), after "any State" insert "or Union territory", omit "specified in Part A or Part B of the First Schedule", omit "or Rajpramukh" and after "that State" insert "or Union territory", as the case may be.

Article 348.—Omit "or Rajpramukh".

Article 356.—In clause (1), omit "or Rajpramukh" and "or Rajpramukh, as the case may be".

Article 361.—In clauses (2), (3) and (4), omit "or Rajpramukh" and in clause (4), omit "or the Rajpramukh".

Article 366.—Omit clause (21), and for clause (30), substitute—

"(30) 'Union territory' means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule".

Article 367.—In clause (2), omit "specified in Part A or Part B of the First Schedule" and "or Rajpramukh".

Article 368.—Omit "specified in Parts A and B of the First Schedule".

Omit articles 379 to 391, both inclusive.

Second Schedule :—(a) In the heading of Part A and in paragraph 1, omit "specified in Part A of the First Schedule".

(b) in paragraph 2, omit "so specified".

(c) in paragraph 3, for "such State" substitute "the States".

(d) in the heading of Part B, omit "in Part A and Part B of the First Schedule".

(e) in paragraph 6, omit "specified in Part A or Part B of the First Schedule".

(f) in the heading of Part C, omit "of a State in Part A of the First Schedule", and for "any such State" substitute "a State"; and

(g) in paragraph 8, omit "of a State specified in Part A of the First Schedule", and for "such State" substitute "a State".

Fifth Schedule.—(a) In paragraph 1, omit "means a State specified in Part A or Part B of the First Schedule but";

(b) in paragraph 3, omit "or Rajpramukh";

(c) in paragraph 5, in sub-paragraphs (1) and (2), omit "or Rajpramukh, as the case may be", in sub-paragraph (3), omit "or Rajpramukh" and in sub-paragraph (5), omit "or the Rajpramukh".

Seventh Schedule.—In List 1,—

(a) in entry 32, omit "specified in Part A or Part B of the First Schedule"; and

(b) for entry 79, substitute,—

"79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory".

Consequential Amendments in the Constitution (Removal of Difficulties) Order No. VIII.

In the Constitution (Removal of Difficulties) Order No. VIII, for sub-paragraphs (1), (2) and (3) of paragraph 2, substitute :

"(1) In article 81—

(a) in sub-clause (b) of clause (1), after the words "Union territories", the words, letter and figures "and the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule" shall be inserted ; and

(b) to clause (2), the following proviso shall be added namely :

"Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule".

(2) In clause (2) of article 170, after the words "throughout the State", the following proviso shall be inserted, namely :

"Provided that the constituencies into which the State of Assam is divided shall not comprise the tribal areas specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule".

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 to 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 amendments 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 State 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, whenever 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 VII 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 (1) (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 to 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 for 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 mend 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 understanding 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 Lists 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 archaeological sites and remains, declared by Parliament by law to be of national importance". A large number of ancient monuments, archaeological 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.

Caluse 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.

New Delhi,

GOVIND BALLAB PANT

The 14th April, 1956.

THE CONSTITUTION (EIGHTH AMENDMENT) BILL, 1959 (Bill No. 79 of 1959)

(*As introduced in the Lok Sabha on 16th November, 1959*)

As Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Eighth Amendment) Act, 1959.

2. **Amendment of article 333.**—(1) In article 333 of the Constitution, for the words "nominate such number of members of the community to the Assembly as he considers appropriate", the words—

"nominate, in the case of the State of West Bengal, not more than two members, and, in the case of any other State, one member, of the community to the Assembly",

shall be substituted.

(2) Nothing contained in sub-section (1) shall affect any representation of the Anglo-Indian community in the Legislative Assembly of any State existing at the commencement of this Act until the dissolution of that Assembly.

3. **Amendment of article 334.**—In article 334 of the Constitution, for the words 'ten years' the words 'twenty years' shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. Although the Scheduled Castes and Scheduled Tribes have made considerable progress in the last ten years, the reasons which weighed with the Constituent Assembly in making provision for the aforesaid reservation of seats and nomination of members have not ceased to exist. It is, therefore, proposed to continue the reservation and the representation to Anglo-Indians by nomination for a further period of ten years.

In extending the period of nomination of members of the Anglo-Indian Community, it is proposed to fix the number of such members who may be nominated by Governors to State Assemblies and an amendment of article 333 is accordingly proposed.

New Delhi, G. B. PANT

The 18th September, 1959.

THE CONSTITUTION (NINTH AMENDMENT) BILL, 1960

(Bill No. 90 of 1960)

(As introduced in the Lok Sabha on 16th December, 1960)

A Bill further to amend the Constitution of India to give effect to the transfer of certain territories to Pakistan in pursuance of the agreements entered into between the Governments of India and Pakistan.

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

1. **Short title**—This Act may be called the Constitution (Ninth Amendment) Act, 1960.

2. **Definition.**—In this Act,

(a) 'appointed day' means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for the transfer of territories to Pakistan in pursuance of the India-Pakistan agreements, after causing the territories to be so transferred and referred to in the First Schedule demarcated for the purpose, and different dates may be appointed for the transfer of such territories from different States and from the Union territory of Tripura ;

(b) 'Indo-Pakistan agreements' means the Agreements dated the 10th day of September, 1958, the 23rd day of October, 1959 and the 11th day of January, 1960, entered into between the Governments of India and Pakistan, the relevant extracts of which are set out in the Second Schedule ;

(c) 'transferred territory' means so much of the territories comprised in the Indo-Pakistan agreements and referred to in the First Schedule as are demarcated for the purpose of being transferred to Pakistan in pursuance of the said agreements.

3. **Amendment of First Schedule to the Constitution.**—As from the appointed day, in the First Schedule to the Constitution,—

(a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures 'and the territories referred to in Part I of the First Schedule to the

Constitution (Ninth Amendment) Act, 1960' shall be added at the end ;

(b) in the paragraph relating to the territories of the State of Punjab, the words, brackets and figures 'but excluding the territories referred to in Part II of the First Schedule to the Constitution (Ninth Amendment) Act, 1960' shall be added at the end ;

(c) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures 'but excluding the territories referred to in Part III of the First Schedule to the Constitution (Ninth Amendment) Act, 1960' shall be added at the end ;

(d) in the paragraph relating to the extent of the Union territory of Tripura, the words, brackets and figures 'but excluding the territories referred to in Part IV of the First Schedule to the Constitution (Ninth Amendment) Act, 1960' shall be added at the end.

THE FIRST SCHEDULE

[See sections 2(a), 2(c) and 3]

Part I

The transferred territory in relation to item (7) of the paragraph 2 of the Agreement dated the 10th day of September, 1958, and item (i) of paragraph 6 of the Agreement dated the 23rd day of October, 1959.

Part II

The transferred territory in relation to item (i) and item (iv) of paragraph 1 of the Agreement dated the 11th day of January, 1960.

Part III

The transferred territory in relation to item (3), item (5) and item (10) of paragraph 2 of the Agreement dated the 10th day of September, 1958, and paragraph 4 of the Agreement dated the 23rd day of October, 1959.

Part IV

The transferred territory in relation to item (8) of paragraph 2 of the Agreement dated the 10th day of September, 1958.

THE SECOND SCHEDULE

[See section 2(b)]

1. Extracts from the Note containing the Agreement dated the 10th day of September, 1958.

2. As a result of the discussions, the following agreements were arrived at :

(3) *Berubari Union No. 12.*

This will be so divided as to give half the area to Pakistan, the other half adjacent to India being retained by India. The division of Berubari Union No. 12 will be horizontal, starting from the north-east corner of Debiganj thana.

The division should be made in such a manner that the Cooch Behar enclaves between Pachagar thana of East Pakistan and Berubari Union No. 12 of Jalpaiguri Thana of West Bengal will remain connected as at present with Indian territory and will remain with India. The Cooch Behar enclaves lower down between Boda thana of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan.

(5) *24 Parganas—Khulna*
24 Parganas—Jessore } Boundary disputes.

It is agreed that the mean of the two respective claims of India and Pakistan should be adopted, taking the river as a guide, as far as possible, in the case of the latter dispute (Ichhamati river)

(7) Plyain and Surma river regions to be demarcated in accordance with the relevant notifications, coastal survey maps and, if necessary, record of rights. Whatever the result of this demarcation might be, the nationals of both the Governments to have the facility of navigation on both these rivers.

(8) Government of India agree to give in perpetual right to Pakistan the land belonging to Tripura State to the

West of the railway line as well as the land appurtenant to the railway line at Bhagalpur.

(10) Exchange of old Cooch Behar enclaves in Pakistan and Pakistan enclaves in India without claim to compensation for extra area going to Pakistan, is agreed to.

2. Extracts from Agreement entitled 'Agreed decisions and Procedures to end disputes and incidents along the Indo-Pakistan Border Areas' dated the 23rd day of October, 1959.

(4) *West Bengal—East Pakistan boundary*

Over 1200 miles of this boundary have already been demarcated. As regards the boundary between West Bengal and East Pakistan the areas of Mahananda Burung and Karatoa rivers, it was agreed that demarcation will be made in accordance with the latest cadastral survey maps supported by relevant notifications and record of rights.

(6) *Assam-East Pakistan boundary*

(i) The dispute concerning Bagge Award III has been settled by adopting the following rational boundary in the Patharia Forest reserve region :

From a point marked X (H 522558) along the Radcliff Line BA on the old Patharia Reserve Boundary as shown in the topographical map sheet No. 83D/5, the boundary line shall run in close proximity and parallel to the cart road to its south to a point A (H 531554) ; then in a southerly direction up the spur and along the ridge to a hill top marked B (H 523529) ; .....along the Radcliff line BA.

The line described along has been plotted on two copies of topographical map sheets Nos. 83D/5, 83D/6 and 83D/2.

The technical experts responsible for the ground demarcation will have the authority to make minor adjustment in order to make the boundary adjustment agree with the physical features as described.

The losses and gains to either country as a result of these adjustments with respect to the line marked on the map will be balanced by the technical experts.

3. Extracts from the Agreement entitled 'Agreed decisions and procedures to end disputes and incidents along the Indo-West Pakistan Border Areas', dated the 11th day of January 1960.

1. *West Pakistan—Punjab border.*—Of the total of 325 miles of the border in this sector, demarcation has been completed along about 252 miles. About 73 miles of the border has not yet been demarcated due to differences between the Governments of India and Pakistan regarding interpretation of the decision and Award of the Punjab Boundary Commission presented by Sir Cyril Radcliff as Chairman of the Commission. These differences have been settled along the lines given below on a spirit of accommodation :

(i) *Theh Sarja Marja, Rakh Harjit Singh and Pathankote (Amritsar-Lahore border).*—The Governments of India and Pakistan agree that the boundary between West Pakistan and India in this region should follow the boundary between the Tehsils of Lahore and Kasur as laid down under Punjab Government Notification No. 2183-E, dated 2nd June, 1939. These three villages will in consequence, fall within the territorial jurisdiction of the Government of Pakistan.

(iv) *Suleimanke (Ferozepur-Montgomery border).*—The Governments of India and Pakistan agree to adjust the district boundaries in this region as specified in the attached schedule and as shown in the map appended thereto as Annexure 1.

STATEMENT OF OBJECTS AND REASONS

Agreements between the Governments of India and Pakistan dated 10th September, 1958, 23rd October, 1959, and 11th January, 1960, settled certain boundary disputes between the Governments of India and Pakistan relating to the borders of the States of Assam, Punjab and West Bengal and the Union territory of Tripura.

According to these agreements, certain territories are to be transferred to Pakistan after demarcation. In the light of the Advisory Opinion of the Supreme Court in Special Reference

No. 1 of 1959, it is proposed to amend the First Schedule to the Constitution under a law relatable to article 368 thereof to give effect to the transfer of these territories.

New Delhi,
The 16th December, 1960. JAWAHARLAL NEHRU

THE CONSTITUTION (TENTH AMENDMENT) BILL, 1961

(Bill No. 43 of 1961)

(As introduced in the Lok Sahba on 11th August, 1961)

A Bill further to amend the Constitution of India.

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

1. Short title and commencement—(1) This Act may be called the Constitution (Tenth Amendment) Act, 1961.

(2) It shall be deemed to have come into force on the 11th day of August 1961.

2. Amendment of the First Schedule to the Constitution.—In the First Schedule to the Constitution, under the heading 'THE UNION TERRITORIES', after entry 6, the following entry shall be inserted, namely :—

"7. Dadra and Nagar Haveli.

The territory which immediately before the eleventh day of August 1961 was comprised in Free Dadra and Nagar Haveli."

3. Amendment of article 240.—In article 240 of the Constitution, in clause (1), after entry (b), the following entry shall be inserted, namely :

"(c) Dadra and Nagar Haveli".

STATEMENT OF OBJECTS AND REASONS

The people and the Varishta Panchayat of Free Dadra and Nagar Haveli have repeatedly affirmed their request to the Government of India for integration of their territories with the Union of India to which they rightly belong. Their request was

recently embodied in a formal Resolution adopted by the Varishta Panchayat on the 12th June, 1961.

In deference to the desire and request of the people of Free Dadra and Nagar Haveli for integration of their territories with the Union of India, the Government of India have decided that these territories should form part of the Union of India.

It is proposed to specify these areas expressly as the Union territory of Dadra and Nagar Haveli by amending the First Schedule to the Constitution. It is further proposed to amend clause (1) of article 240 of the Constitution to include therein the Union territory of Dadra and Nagar Haveli in order to enable the President to make regulations for the peace, progress and good government of the territory.

The Bill seeks to give effect to these proposals.

New Delhi, JAWAHARLAL NEHRU

THE CONSTITUTION (ELEVENTH AMENDMENT) BILL, 1961

(Bill No. 66 of 1961)

(As introduced in Lok Sabha on 30th November, 1961)

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the twelfth year of the Republic of India as follows :—

1. Short title.—This Act may be called the Constitution (Eleventh Amendment) Act, 1961.

2. Amendment of artcle 66.—In article 66 of the Constitution, in clause (1), for the words "members of both Houses of Parliament assembled at a joint meeting", the words "members of an electoral college consisting of the members of both Houses of Parliament" shall be substituted.

3. Amendment of article 71.—In article 71 of the Constitution after clause (3), the following clause shall be inserted, namely :

"(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".

STATEMENT OF OBJECTS AND REASONS

Under article 66(1) of the Constitution, the Vice-President has to be elected by members of both Houses of Parliament assembled at a joint meeting. The requirement that members of the two Houses should assemble at a joint sitting for the election of the Vice-President seems to be totally unnecessary and may also cause practical difficulties. It is, therefore, proposed to amend this article to provide that the Vice-President will be elected by members of an electoral college consisting of members of both Houses of Parliament. Under article 54 of the Constitution, the President is elected by an electoral college consisting of the elected members of both Houses of Parliament and of the Legislative Assemblies of the States. Every effort is made to complete such election before the date of the Presidential election. It is, however, possible that the election to the two Houses of Parliament may not be completed before the President or the Vice-President is elected It is, therefore, proposed to amend article 71 of the Constitution so as to make it clear that the election of the President or the Vice-President cannot be challenged on the ground of any vacancy for any reason in the appropriate electoral college.

2. The Bill seeks to achieve these objects. The notes on clauses appended to the Bill explain the provisions thereof.

New Delhi,

A.K. SEN

The 24th November, 1961.

THE CONSTITUTION (TWELFTH AMENDMENT) BILL, 1962

(Bill No. 3 of 1962)

(As introduced in Lok Sabha on 12th March, 1962)

A Bill further to amend the Constitution of India.

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

1. Short title and commencement.—(1) This Act may be called the Constitution (Twelfth Amendment) Act, 1962.

(2) It shall be deemed to have come into force on the 20th day of December, 1961.

2. Amendment of the First Schedule to the Constitution.—In the First Schedule to the Constitution, under the heading THE UNION TERRITORIES, after entry 7, the following entry shall be inserted, namely :

"8. Goa, Daman and Diu. The territories which immediately before the twentieth day of December, 1961 were comprised in Goa, Daman and Diu".

3. Amendment of article 240.—In article 240 of the Constitution, in clause (1), after entry (c) the following entry shall be inserted, namely :

"(d) Goa, Daman and Diu".

STATEMENT OF OBJECTS AND REASONS

On the acquisition of the territories of Goa, Daman and Diu with effect from the 20th December, 1961, these territories have, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date and they are being administered as a Union territory by the President through an Administrator in accordance with article 239 of the Constitution. It is, however, considered desirable that Goa, Daman and Diu should be specifically included as a Union territory in the First Schedule to the Constitution. It is also considered that clause (1) of article 240 should be suitably amended to confer power on the President to make regulations for the peace, progress and good government of Goa, Daman and Diu, as has been done in the case of Dadra and Nagar Haveli.

The Constitution (Twelfth Amendment) Bill, 1962 seeks to make the above mentioned provisions.

New Delhi, JAWAHARLAL NEHRU

THE CONSTITUTION (THIRTEENTH AMENDMENT BILL, 1962

(Bill No. 72 of 1962)

(As introduced in Lok Sabha on 21st August, 1962)

A Bill further to amend the Constitution of India.

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

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Thirteenth Amendment) Act, 1962.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of Part XXI.**—In Part XXI of the Constitution.—(a) for the heading, the following heading shall be substituted, namely :

"TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS"

(b) after article 371, the following article shall be inserted, namely :

"371A. **Special provision with respect to the State of Nagaland.**—(1) Notwithstanding anything in this Constitution,—

(a) no Act of Parliament in respect of—

(i) religious or social practices of the Nagas,

(ii) Naga customary law and procedure,

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

(iv) ownership and transfer of land and its resources,

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides ;

(b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the dis-

charge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken :

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

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

(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand ;

(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—

(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen ;

Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman exofficio of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves ;

(ii) the qualifications for being chosen as, and for being, members of regional council ;

(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of the regional council;

(iv) the procedure and conduct of business of the regional council;

(v) the appointment of officers and staff of the regional council and their conditions of service; and

(vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

(2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—

(a) the administration of the Tuensang district shall be carried on by the Governor;

(b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

(c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council;

Provided that any direction given under this sub-clause may be given so as to have retrospective effect:

(d) the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective

effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district ;

(e) (i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid ;

(ii) the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same ;

(f) notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion ;

(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article ;

(h) in article 170—

(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word 'sixty', the words 'forty-six' had been substituted ;

(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article,

(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.

If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other

article) which appears to him to be necessary for the purpose of removing that difficulty :

Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.

Explanation.—In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962."

STATEMENT OF OBJECTS AND REASONS

In July, 1960, an agreement was reached by the Government of India with the leaders of the Naga Peoples Convention under which it was decided that Naga Hills-Tuensang Area (Nagaland), which is at present a Part 'B' tribal area within the State of Assam, will be formed into a separate State in the Union of India.

2. The Agreement inter-alia provides that—

(a) the Governor of the State of Nagaland shall have special responsibility for law and order for so long as the law and order situation continues to remain disturbed on account of hostile activities ;

(b) the Governor shall have general responsibility with regard to the funds made available to the new State by the Government of India ;

(c) the administration of the Tuensang District of Nagaland shall be carried on by the Governor for a period of ten years during which it is expected that the people of that area would be in a position to shoulder fuller responsibilities of administration. A Regional Council is to be formed for the said Tuensang District comprising elected representatives from the tribes therein. This Regional Council will supervise and guide the working of the Village, Range and Area Councils in that district and further no law passed by the Nagaland legislature will extend to that district unless so recommended by the Regional Council ;

(d) Acts of Parliament shall not apply to Nagaland unless so decided by the Nagaland Legislature with regard to :

(i) religious or social practices of the Nagas ;

(ii) Naga Customary Law and procedure;

(iii) administration of civil and criminal justic involving decisions according to Naga Customary Law;

(iv) ownership and transfer of land and its resources.

3. As these matters are peculiar to the proposed new State of Nagaland, provision with respect thereto has to be made in the Constitution itself. This Bill accordingly seeks to amend the Constitution to provide for the aforesaid matters and matters ancillary thereto. A separate Bill for the formation of the new State relatable to article 3 is also being introduced.

New Delhi, JAWAHARLAL NEHRU

THE CONSTITUTION (FOURTEENTH AMENDMENT) BILL, 1962

(Bill No. 86 of 1962)

(As introduced in the Lok Sabha on 30th August, 1962)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Fourteenth Amendment) Act, 1962.

2. **Amendment of article 81.**—In article 81 of the Constitution, in sub-clause (b) of clause (1), for the words "twenty members", the words "twenty-five members" shall be substituted.

3. **Amendment of the First Schedule.**—In the First Schedule to the Constitution, under the heading "II. THE UNION TERRITORIES", after entry, 8, the following entry shall bo inserted, namely :

"9. Pondicherry.	The territories which immediately before the sixteenth day of August 1962, were comprised in the French Establishments in India known as Pondicherry, Karikal, Mahe and Yanam."

4. **Insertion of new article 239A.**—After article 239 of the Constitution, the following article shall be inserted, namely :

"**239A. Creation of local Legislatures or Council of Ministers or both for certain Union territories.**—(1) Parliament may by law create for any of the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondicherry—

(a) a body, whether nominated or elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) shall not be deemed to be amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

5. **Amendment of article 240.**—In article 240, in clause (1),—

(a) after entry (d), the following entry shall be inserted, namely :

"(e) Pondicherry :";

(b) the following proviso shall be inserted at the end, namely :

"Provided that when any body is created under article 239A to function as Legislature for the Union Territory of Goa, Daman and Diu or Pondicherry, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature."

6. **Amendment of the Fourth Schedule.**—In the Fourth Schedule, in the Table,—

(a) after entry 20, the entry

"21. Pondicherry.....1" shall be inserted;

(b) for the figures "225", the figures "226" shall be substituted.

7. **Retrospective operation of certain provisions.**—Section 3 and clause (a) of section 5 shall be deemed to have come into force on the 16th day of August, 1962.

STATEMENT OF OBJECTS AND REASONS

With the ratification of the Treaty of Cession by the Governments of India and France, on the 16th August, 1962, the French establishments of Pondicherry, Karikal, Mahe and Yanam became territories of the Indian Union with effect from that date. This Bill provides for these territories being specified in the Constitution itself as a Union territory called 'Pondicherry'. Under article 81(1) (b) of the Constitution, not more than twenty members are to represent the Union territories in the House of the People. This maximum has already been reached. The Bill accordingly seeks to increase this number to twenty-five to enable representation being given immediately to Pondicherry in the House of the People and to provide for future contingencies. The Bill also provides for representation of the territory in the Council of States.

It is proposed to create Legislatures and Councils of Ministers in the Union erritories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Pondicherry broadly on the pattern of the scheme which was in force in some of the Part C States before the reorganisation of the States. The Bill seeks to confer necessary legislative power on Parliament to enact laws for this purpose through a new article 239A which follows generally the provisions of article 240 as it stood before the reorganisation of the States.

New Delhi, LAL BAHADUR

The 25th August, 1962.

THE CONSTITUTION (FIFTEENTH AMENDMENT) BILL, 1962

(Bill No. 111 of 1962)

(As introduced in Lok Sabha on 23rd November, 1962)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Fifteenth Amendment) Act, 1962.

2. **Amendment of article 124.**—In article 124 of the Constitution, after clause (2), the following clause shall be inserted, namely :

"(2A) If any question arises as to the age of a Judge of the Supreme Court, the question shall be decided by the President after making such inquiry as he may deem necessary and his decision shall be final".

3. **Amendment of article 128.**—In article 128 of the Constitution, after the words "Federal Court", the words "or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court" shall be inserted.

4. **Amendment of article 217.**—In article 217 of the Constitution,—

(a) in clause (1), for the words "sixty years", the words "sixty-two years" shall be substituted ;

(b) after clause (2), the following clause shall be inserted and shall be deemed always to have been inserted, namely :

"(3) If any question arises as to the age of a Judge of a High Court, the question shall be decided by the President after making such inquiry as he may deem necessary and his decision shall be final."

5. **Amendment of article 220.**—In article 220 of the Constitution, the following proviso shall be inserted before the Explanation, namely :

"Provided that where a Judge is transferred from one High Court to another High Court and he serves as a Judge of that High Court for a period of not less that five years immediately before retirement, he shall be entitled, on retirement, to plead or act in the Supreme Court and all the High Courts except the High Court to which he was so transferred."

6. **Amendment of article 222.**—In article 222 of the Consti-

tution, after clause (1), the following clause shall be inserted, namely :

"(2) When a Judge is so transferred, he shall, during the period he serves as a Judge of the other High Court, be entitled to receive in addition to his salary such compensatory allowance as may be determined by Parliament by law and, until so determined, such compensatory allowance as the President may by order fix."

7. **Amendment of article 224.**—In article 224 of the Constitution, in clause (3), for the words "sixty years", the words "sixty-two years" shall be substituted.

8. **Insertion of article 224A.**—After article 224 of the Contitution, the following article shall be inserted, namely :

"**224A. Appointment of retired Judges at sittings of High Courts.**—Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that High Court :

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that High Court unless he consents so to do."

9. **Amendment of article 226.**—In article 226 of the Constitution,—

(a) after clause (1), the following clause shall be inserted, namely :

"(1A) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action for the exercise of such power arises, notwithstanding

that the seat of such Government or authority or the residence of such person is not within those territories.";

(b) in clause (2), for the word, brackets and figure "clause (1)", the words, brackets, figures and letter "clause (1) or clause (1A)" shall be substituted.

10. **Amendment of article 276.**—In article 276 of the Constitution, in clause (2), for the words "two hundred and fifty rupees", wherever they occur, the words "five hundred rupees" shall be substituted.

11. **Amendment of article 297.**—In article 297 of the Constitution, after the words "territorial waters", the words "or the continental shelf" shall be inserted.

12. **Amendment of article 311.**—In article 311 of the Constitution, for clauses (2) and (3), the following clause shall be substituted, namely :

"(2) No such person as aforesaid shall be dismissed or removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those things :

Provided that this clause shall not apply—

(a) where a person is dismissed or removed on the ground of conduct which has led to his conviction on a criminal charge ; or

(b) where the authority empowered to dismiss or remove a person is satisfied that for some reason, to be recorded by that authority in writing, it is reasonably practicable to hold such inquiry ; or

(c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.

(3) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in clause (2), the decision thereon of the authority as empowered to dismiss or remove such person shall be final."

13. Amendment of article 316.—In article 316 of the Constitution, after clause (1), the following clause shall be inserted, namely :

"(1A) If the office of the Chairman of the Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one of the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor of the State in the case of a State Commission, may appoint for the purpose."

14. Amendment of the Seventh Schedule.—In the Seventh Schedule to the Constitution, in List I, in entry 78, after the word 'organisation", the brackets and words "(including vacations)" shall be inserted and shall be deemed always to have been inserted.

STATEMENT OF OBJECTS AND REASONS

Several amendments to the Constitution have been under consideration for a long time. The Constitution (Fifth Amendment) Bill was introduced in Lok Sabha in November, 1955, to give effect to some of them. For various reasons, the Bill could not be proceeded with, and it was allowed to lapse except the one relating to the amendment of article 3 of the Constitution. This article was amended separately by the Constitution (Fifth Amendment) Act, 1955. The present Bill contains some of the proposals included in the Constitution (Fifth Amendment) Bill and, in addition, there are a few more proposals for amendment of the Constitution. The proposals relating to articles 276, 297, 311 and 316 of the Constitution were contained in the Constitution (Fifth Amendment) Bill and they have been adopted with some minor modifications. The new proposals relate to articles 124, 128, 217, 220, 222, 224A, 226 and entry 78 of the Union List.

2. It is proposed to amend article 217 so as to raise the age of retirement of High Court Judges from sixty years to sixty-two years. When any question arises to the correct age of a Judge of the Supreme Court or of a High Court, the question has to be decided by the President. It is proposed to make the position clear by making a specific provision in articles 124 and 217. It is considered desirable in the public interest that Judges should be transferred from one High Court to another. Such transfer is expected to impose additional financial burden on the Judge who is so transferred. It is, therefore, proposed to pay him some compensatory allowance in addition to his salary. When a Judge is transferred from one High Court to another, he cannot, in view of the provisions of article 220, resume practice in any of the High Courts in which he has held office as a Judge. The provisions of article 220, therefore, put a check on the proposal for the transfer of any Judge of a High Court. It is, therefore, proposed to amend article 220 so that the restriction regarding resumption of practice should apply only to the High Court from which the Judge retires, provided that he had served in that High Court for a period of at least five years immediately before retirement. Such a provision would facilitate the transfer of Judges. Under the existing article 226 of the Constitution, the only High Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant places. It is, therefore, proposed to amend article 226 so that when any relief is sought against any government, authority or person for any action taken, the High Court within whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs. The other new proposals are of a minor character.

3. The notes on clauses appended to the Bill explain the provisions thereof.

New Delhi, A.K. SEN

The 14th November, 1962.

THE CONSTITUTION (SIXTEENTH AMENDMENT) BILL, 1963

(Bill No. 1 of 1963)

(As introduced n Lok Sabha on 21st January, 1963)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Sixteenth Amendment) Act, 1963.

2. **Amendment of article 19.**—In article 19 of the Constitution.—

(a) in clause (2), after the words "in the interests of" the words "the severeignty and integrity of India or" shall be inserted.

3. **Amendment of article 84.**—In article 84 of the Constitution, for clause (a), the following clause shall be substituted, namely :

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

4. **Amendment of article 173.**—In article 173 of the Constitution, for clause (a), the following clause shall be substituted, namely :

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

5. **Amendment of Third Schedule.**—In the Third Schedule to the Constitution,—

(a) in Form 1, after the words "Constitution of India as by law established", the words "that I will uphold the sovereignty and integrity of India," shall be inserted ;

(b) for Form III, the following shall be substituted, namely :

"III

A

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

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

B

Form of oath or affirmation to be made by a member of Parliament :

"I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty which I am about to enter." ;

(c) in Forms IV, V and VIII, after the words "the Constitution of India as by law established", the words "that I will uphold the sovereignty and integrity of India" shall be inserted :

(d) for Form VII, the following shall be substituted, namely :

"VII

A

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

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

B

Form of oath or affirmation to be made by a member of the Legislature of a State:

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, 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."

STATEMENT OF OBJECTS AND REASONS

The Committee on National Integration and Regionalism appointed by the National Integration Council recommended that article 19 of the Constitution be so amended that adequate powers become available for the preservation and maintenance of the integrity and sovereignty of the Union. The Committee were further of the view that every candidate for the membership of a State Legislature or Parliament, and every aspirant to, and incumbent of, public office should pledge himself to uphold the Constitution and to preserve the integrity and sovereignty of the Union and that forms of oath in the Third Schedule to the Constitution should be suitably amended for the purpose. It is proposed to give effect to these recommendations by amending clauses (2), (3) and (4) of article 19 for enabling the State to make any law imposing reasonable restrictions on the exercise of the rights conferred by sub-clauses (a), (b) and (c) of clause (1) of that article in the interests of the sovereignty and integrity of India. It is also proposed to amend articles 84 and 173 and forms of oath in the Third Schedule to the Constitution so as to provide that every candidate for the membership of Parliament or State Legislature, Union and State Ministers, Members of Parliament and State Legislatures, Judges of the Supreme Court and High Courts and the Comptroller and Auditor General of India should take an oath to uphold the sovereignty and integrity of India.

2. The Bill seeks to achieve these objects.

New Delhi, A.K. SEN

The 18th January, 1963.

THE CONSTITUTION (NINETEENTH AMENDMENT) BILL, 1964

(Bill No. 46 of 1964)

(As introduced in Lok Sabha on 27th May, 1964)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (Nineteenth Amendment) Act, 1964.

2. **Amendment of article 31A.**—In article 31A of the Constitution,—

(i) in clause (1), after the existing proviso, the following proviso shall be inserted, namely :

"Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereto." ;

(ii) in clause (2) for sub-clause (a), the following sub-clause shall be substituted and shall be deemed to have been substituted, namely :

'(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include,

(i) any *jagir*, *imam* or *muafi* or other similar grant and in the States of Madras and Kerala, any *janmam right*;

(ii) any land held under ryotwari settlement ;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans ;'

3. Amendment of the Ninth Schedule.—In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely :

"21. The Andhra Pradesh Ceiling on Agricultural Holding Act, 1961 (Andhra Pradesh Act X of 1961).

22. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands (Validation) Act, 1961 (Andhra Pradesh Act XXI of 1961).

23. The Andhra Pradesh (Telangana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).

24. The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959 (Assam Act IX of 1961).

25. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).

26. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962), (except section 28 of this Act).

27. The Bombay Taluqdari Tenure Abolition (Amendment) Act 1954 (Bombay Act I of 1955).

28. The Bombay Taluqdari Tenure Abolition (Amendment) Act 1957 (Bombay Act XVIII of 1958).

29. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).

30. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).

31. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVII of 1961).

32. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).

33. The Gujarat Surviving Alienations Abolition Act, 1963 (Gujarat Act XXXIII of 1963).

34. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, (Maharashtra Act XXVII of 1961).

35. The Hyderabad Tenancy and Agricultural Lands (Re-enactment, Validation and Further Amendment) Act, 1961 (Maharashtra Act XLV of 1961).

36. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).

37. The Jenmikaram Payment (Abolition) Act, 1960 (Kerala Act III of 1961).

38. The Kerala Land Tax Act, 1961 (Kerala Act XIII of 1961).

39. The Kerala Land Reforms Act, 1963 (Kerala Act I of 1961).

40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).

41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).

42. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).

43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).

44. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).

45. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act, LVII of 1961).

46. The Madras Land Reforms (Fixation of Ceiling on land) Act, 1961 (Madras Act LVIII of 1961).

47. Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).

48. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).

49. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).

50. The Hyderabad Tenancy and Agricultural Lands (Validation) Act 1961 (Mysore Act XXXVI of 1961).

51. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).

52. The Orissa Land Reforms Act, 1960 (Orissa Act XVI of 1960).

53. The Orissa Merged Territories (Village Offices Abolition) Act, 1933 (Orissa Act X of 1963).

54. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).

55. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).

56. The Rajasthan Zamindari And Biswedari Abolition Act. 1959 (Rajasthan Act VIII of 1959).

57. The Kumaun and Uttarkhand Zamindari Abolition and Land Reforms Act, 1960 (Uttar Pradesh Act XVII of 1960).

58. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act. 1960 (Uttar Pradesh Act 1 of 1961).

59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).

60. The West Bengal Land Reforms Act, 1955 (West Bengal Act X 1956).

61. The Delhi Land Reforms Act, 1954 (Delhi Act, VIII of 1954).

62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).

63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).

64. The Tripura Land Revenue Land Reforms Act, 1960 (Central Act 43 of 1960).

Explanation.—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act, III of 1955), in contravention of the second proviso to clause (1) of article 31A shall, to the extent of the contravention, be void."

STATEMENT OF OBJECTS AND REASONS

Article 31A of the Constitution provides that a law in respect of the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights shall not be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31. The protection of this article is available only in respect of such tenures as were estates on the 26th January, 1950, when the Constitution came into force. The expression "estate" has been defined differently in different States and, as a result of the transfer of land from one State to another on account of the reorganisation of States, the expression has come to be defined differently in different parts of the same State. Moreover, many of the land reform enactments relate to lands which are not included in an estate. Several State Acts relating to land reform were struck down on the ground that the provisions of those Acts were violative of articles 14, 19 and 31 of the Constitution and that the protection of article 31A was not available to them. It is, therefore, proposed to amend the definition of "estate" in article 31A of the Constitution by including therein lands held under ryotwari settlement and also other lands in respect of which provisions are normally made in land reform enactments. It is further proposed to provide that where any law makes a provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing therein or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure provides for payment of compensation at a rate not less than the market value thereof.

2. It is also proposed to amend the Ninth Schedule by including therein certain State enactments relating to land reform in order to remove any uncertainty or doubt that may arise in regard to their validity.

3. The Bill seeks to achieve these objects.

New Delhi ; A. K. SEN
The 30th April, 1964.

THE CONSTITUTION (EIGHTEENTH AMENDMENT) BILL, 1966

(Bill No. 39 of 1966)

(As introduced in the Lok Sabha on 25th July, 1966 as the Constitution (Twentieth Amendment) Bill)

A Bill further to amend the Constitution of India.

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

1. **Short title**—This Act may be called the Constitution (Twentieth Amendment) Act, 1966.

2. **Amendment of article 3**—In article 3 of the Constitution, the following Explanations shall be inserted at the end, namely :

Explanation I—In this article, in clauses (a) to (e), "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II—The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.

STATEMENT OF OBJECTS AND REASONS

Article 3 of the Constitution provides for the formation of new States and alteration of areas, boundaries. or names of existing States. Before the Constitution (Seventh Amendment) Act, 1956, was enacted, the expression "States" occurring in that article meant Part A States, Part B States and also Part C States. By the Seventh Amendment of the Constitution in 1956, the concept of "Union territories" was introduced in our Constitution but article 3 was not amended to include the terms "Union territories". It is considered proper to amend this article to make it clear that "State" in clauses (a) to (e) of that article (but not in the proviso) includes "Union territories". It is also considered

proper to make it clear that power under clause (a) of article 3 includes power to form a new State or Union territory by uniting a part of a State or Union territory to another State or Union territory.

The Bill seeks to achieve the above objects.

New Delhi : G. L. NANDA
The 16th May, 1966.

THE CONSTITUTION (NINETEENTH AMENDMENT) BILL, 1966

(Bill No. ... of 1966)

(As introduced in Lok Sabha on 29-8-66 as The Constitution (Twenty-first Amendment) Bill, 1966)

A Bill further to amend the Constitution of India

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

1. **Short title**—This Act may be called the Constitution (Twenty-first Amendment) Act, 1966.

2. **Amendment of article 324**—In article 324 of the Constitution, in clause (1), the words, "including the appointment of election tribunals for the decision or doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

One of the important recommendations made by the Election Commission in its Report on the Third General Elections in India in 1962, and accepted by the Government relates to the abolition of election tribunals and trial of election petitions by High Courts.

If the proposal for a legislation to amend the Representation of the People Act, 1951, containing, *inter alia*, provisions for the trial of election petitions by High Courts instead of by election tribunals, as at present, is accepted by Parliament, it would be necessary to make a minor amendment in clause (1) of article 324 of the Constitution for the purpose of deleting therefrom the

words, "including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States".

The Bill is intended to give effect to the aforesaid object.

New Delhi ; G. S. PATHAK
The 16th August, 1966.

THE CONSTITUTION (TWENTIETH AMENDMENT) BILL, 1966

(Bill No. 89 of 1966)

(As introduced in Lok Sabha on 25-11-66 as The Constitution (Twenty-Third Amendment) Bill)

A Bill to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Twenty-third Amendment) Act, 1966.

2. **Insertion of new article 233A.** After article 233 of the Constitution, the following article shall be inserted, namely :

"233A. **Validation of appointments of, and judgments, etc., delivered by, certain district judges.** Notwithstanding any judgment, decree or order of any court,—

(a) (i) no appointment of any person already in the judicial service of a State or of any person who has been for not less than seven years an advocate or a pleader, to be a district judge in that State, and

(ii) no posting, promotion or transfer of any such person as a district judge,

made at any time before the commencement of the Constitution (Twenty-third Amendment) Act, 1966, otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions ;

(b) no jurisdiction exercised, no judgment, decree, sentence or order passed or made, and no other act or proceeding done or taken, before the commencement of the Constitution (Twenty-third Amendment) Act, 1966 by, or before, any person appointed, posted, promoted or transferred as a district judge in any State otherwise than in accordance with the provisions of article 233 or article 235 shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment, posting, promotion or transfer was not made in accordance with the said provisions."

STATEMENT OF OBJECTS AND REASONS

Appointments of district judges in Uttar Pradesh and a few other States have been rendered invalid and illegal by a recent judgment of the Supreme Court on the ground that such appointments were not made in accordance with the provisions of article 233 of the Constitution. In another judgment, the Supreme Court has held that the power of posting of a district judge under article 233 does not include the power of transfer of such judge from one station to another and that the power of transfer of such judge from one station to another and that the power of transfer of a district judge is vested in the High Court under article 235 of the Constitution. As a result of these judgments, a serious situation has arisen because doubt has been thrown on the validity of the judgments, decrees, orders and sentences passed or made by these district judges and a number of writ petitions and other cases have already been filed challenging their validity. The functioning of the district courts in Uttar Pradesh has practically come to a standstill. It is, therefore, urgently necessary to validate the judgments, decrees, orders and sentences passed or made theretofore by all such district judges in those States and also to validate the appointment, posting, promotion and transfer of such district judges barring those few who were not eligible for appointment under article 233.

2. The Bill seeks to give effect to the above proposals.

New Delhi ; Y. B. CHAVAN.
The 20th November, 1966.

THE CONSTITUTION (TWENTY - FIRST AMENDMENT) BILL, 1967

(Bill No. 1 of 1967)

(As re-introduced in the Rajya Sabha on 20-3-1967)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Twenty-first Amendment) Act, 1967.

2. **Amendment of Eighth Schedule.** In the Eighth Schedule to the Constitution,—

(a) entries 12 or 14 shall be re-numbered as entries 13 to 15 respectively, and

(b) before entry '13' as so re-numbered, the entry '12. Sindhi' shall be inserted.

STATEMENT OF OBJECTS AND REASONS

There have been persistent demands from the Sindhi-speaking people for the inclusion of the Sindhi language in the Eighth Schedule to the Constitution. Although at present Sindhi is not a regional language in a well-defined area, it used to be the language of a province of the undivided India and, but for partition, would have continued to be so. The Commissioner of Linguistic Minorities has also recommended the inclusion of Sindhi in the Eighth Schedule to the Constitution. On 4th November, 1966 it was announced that Government had decided to include the Sindhi language in the Eighth Schedule to the Constitution. The Bill seeks to give effect to this decision.

New Delhi ; Y. B. CHAVAN

The 13th March, 1967.

THE CONSTITUTION (TWENTY-SECOND AMENDMENT) BILL, 1968

(Bill No. 113 of 1968)

(As introduced in the Lok Sabha on 10th December, 1968)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Twenty-second Amendment) Act, 1968.

2. **Insertion of new article 244A.** In Part X of the Constitution, after article 244, the following article shall be inserted, namely :

"244A. (1) **Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefor.** Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether wholly or in part) all or any of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and create therefor—

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular,—

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise ;

(b) define the matters with respect to which the executive power of the autonomous State shall extend ;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State ;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State ; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds af the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution."

3. **Amendment of article 275** In article 275 of the Constitution, after clause (1), the following clause shall be inserted, namely :

"(1A) On and from the formation of the autonomous State under article 244A,—

(i) any sums payable under clause (a) of the second proviso to clause (1) shall, if the autonomous State comprises all the tribal areas referred to therein, be paid to the autonomous State, and, if the autonomous State comprises only some of those tribal areas, be apportioned between the State of Assam and the autonomous State as the President may, by order, specify ;

(ii) there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the autonomous State sums, capital and recurring, equivalent to the costs of such schemes of development as may be undertaken by the autonomous State with the approval of the Government of India for the purpose of raising the level of administration

of that State to that of the administration of the rest of the State of Assam."

4. **Insertion of new article 371B.** After article 371A of the Constitution, the following article shall be inserted, namely :

"371B. **Special provision with respect to the State of Assam.** Nothwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the Constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modification to be made in the rules of procedure of that Assembly."

STATEMENT OF OBJECTS AND REASONS

On the 11th September, 1968 the Government of India announced the broad details of the scheme for constituting within the State of Assam an autonomous State comprising certain areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution. Clause 2 of the Bill seeks to insert a new article 244A in the Constitution to confer the necessary legislative power on Parliament to enact a law for constituting the autonomous State and also to provide the autonomous State with a Legislature and a Council of Ministers with such powers and functions as may be defined by that law.

Clause 3 of the Bill makes a consequential amendment to article 275 in regard to certain special grants payable to the State of Assam in respect of the areas which may form part of the autonomous State.

Clause 4 of the Bill provides for the Constitution of a committee of the Assam Legislative Assembly consisting of members of that Assembly from the tribal areas aforesaid and a few other members of that Assembly, as envisaged in the scheme.

Y.B. CHAVAN

New Delhi ;
The 12th November, 1968.

THE CONSTITUTION (TWENTY-THIRD AMENDMENT) BILL, 1969

(Bill No. 78 of 1969)

(As introduced in the Lok Sabha on 26th August, 1969)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Twenty-third Amendment) Act, 1969.

2. **Amendment of article 330.** In article 330 of the Constitution in sub-clause (b) of clause (1), for the words "except the Scheduled Tribes in the tribal areas of Assam", the words "except the Scheduled Tribes in the tribal areas of Assam and in Nagaland" shall be substituted.

3. **Amendment of article 332.** In article 332 of the Constitution in clause (1), for the words "except the Scheduled Tribes in the tribal areas of Assam", the words "except the Scheduled Tribes in the tribal areas of Assam and in Nagaland" shall be substituted.

4. **Amendment of article 333.** (1) In article 333 of the Constitution, for the words "nominate such number of members of the community to the Assembly as he considers appropriate", the words "nominate one member of that community to the Assembly" shall be substituted.

(2) Nothing contained in sub-section (1) shall affect any representation of the Anglo-Indian community in the Legislative Assembly of any State existing at the commencement of this Act until the dissolution of that Assembly.

5. **Amendment of article 334.** In article 334 of the Constitution for the words "twenty years", the words "thirty years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the

Scheduled Castes and Scheduled Tribes and the representation of Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of twenty years from the commencement of the Constitution. Although the Scheduled Castes and Scheduled Tribes have made considerable progress in the last twenty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members have not ceased to exist. It is, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the reservation of Anglo-Indians by nomination for a further period of ten years.

2. More than ninety per cent of the population of the State of Nagaland which came into being in 1963 is tribal. It would be anomalous to make provision for reservation for Scheduled Castes and Scheduled Tribes in Legislatures in the States where they are in a majority. It is, therefore, proposed as desired by the Government of Nagaland, not to make any reservation for the Scheduled Tribes in Nagaland either in the House of the People or in the State Legislative Assembly. Articles 330 and 332 of the Constitution are being amended for this purpose.

3. Under article 333 of the Constitution, the number of Anglo-Indians, who may be nominated to the State Legislative Assemblies, is left to the discretion of the Governor. It is now proposed to amend that article so as to provide that not more than one Anglo-Indian should be nominated by the Governor to any State Legislative Assembly. This amendment will not however affect representation of Anglo-Indian community in the existing Legislative Assemblies until their dissolution.

P. GOVINDA MENON

New Delhi ;
The 11th August, 1969.

(C) Text of Official Constitution Amendment Bills with Statement of Objects and Reasons (Withdrawn, Lapsed or Lost)

THE CONSTITUTION (FIFTH AMENDMENT) BILL, 1955
(Bill No. 60 of 1955)

(As introduced in Lok Sabha on 21st November, 1955)

A Bill futher to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Fifth Amendment) Act 1955.

2. **Amendment of article 3.** In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely :

"Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference."

3. **Amendment of articles 100 and 189.** (1) In article 100 of the Constitution,—

(a) in clause (3), for the words "Until Parliament by law otherwise provides", the words "Save as otherwise provided by rules regulating the procedure of the House" shall be substituted; and

(b) clause (4) shall be omitted.

(2) in article 189 of the Constitution,—

(a) In clause (3), for the words "Until the Legislature of the State by law otherwise provides", the words "Save as otherwise provided by rules regulating the procedure of the House" shall be substituted ; and

(b) clause (4) shall be omitted.

4. **Amendment of articles 101, 103, 190 and 192.** (1) In article 101 of the Constitution, in clause (3), sub-clause (a) and the brackets and letter "(9b)" shall be omitted.

(2) For article 103 of the Constitution, the following article shall be substituted, namely :

"103(1) If it is represented to the Chairman or the Speaker that a member of the Council of States or, as the case may be, of the House of the People is disqualified for being such a member under the provisions of article 102, or was so disqualified at any time since being chosen as such member, and the member does not admit that he is or was so disqualified, the question shall be referred to the Election Commission for decision, and its decision shall be final :

Provided that where the disqualification in question arises from circumstances which subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained—

(a) unless it is made after the expiration of the period prescribed by law for presenting an election petition calling in question the election of the member, and

(b) if such an election petition is pending or has been tried, unless the Chairman or Speaker, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised, or as the case may be was not raised, in the proceedings on the election petition.

(2) Where on a representation made under clause (1) the member admits that he is or was disqualified under the provisions of article 102, or where on a reference made under that clause the Election Commission decides that the member is or was so disqualified, his seat shall thereupon become vacant."

(3) In article 190 of the Constitution, in the clause (3), sub-clause (a) and the brackets and letter "(b)" shall be omitted.

(4) For article 192 of the Constitution, the following article shall be substituted, namely :

"**192 Decision on questions as to disqualifications of members.** (1) If it is represented to the Speaker or the Chairman that a member of the Legislative Assembly or, as the case may be, of the Legislative Council of a State is disqualified for being such a member under the provisions of article 191, or was so disqualified at any time since being chosen as a member, and the member does not admit that he is or was so disqualified, the question shall be referred to the Election Commission for decision, and its decision shall be final :

Provided that where the disqualification in question arises from circumstances which subsisted at the time of his being chosen as such member, no such representation as aforesaid shall be entertained—

(a) unless it is made after the expiration of the period prescribed by law for presenting an election petition calling in question the election of the member, and

(b) if such an election petition is pending or has been tried, unless the Speaker or Chairman, as the case may be, is satisfied that the question of the member's disqualification by reason of those circumstances has not been raised, or as the case may be was not raised, in the proceedings on the election petition.

(2) Where on a representation made under (1) the member admits that he is or was disqualified under the provisions of article 191, or where on a reference made under that clause the Election Commission decides that the member is or was so disqualified, his seat shall thereupon become vacant."

5. **Amendment of articles 148 and 319.** (1) In article 148 of the Constitution, to clause (4), the following Explanation shall be added, namely :

"Explanation —For the purposes of this Clause, the office of a Minister for the Union or for a State shall not be deemed

to be an office either under the Government of India or under the Government of a State."

(2) In article 319 of the Constitution,—

(a) for the word "employment" wherever it occurs, the word "office" shall be substituted; and

(b) the following Explanation shall be added at the end, namely :

"Explanation.—For the purposes of this article, the office of a Minister for the Union or for a State shall not be deemed to be an office either under the Government of India or under the Government of a State."

6. **Amendment of article 276.** In article 276 of the Constitution, in clause (2), for words "two hundred and rupees fifty" wherever they occur, the words "one thousand rupees" shall be substituted.

7. **Amendment of article 297.** In article 297 of the Constitution, after the words "territorial waters", the words "or the continental shelf" shall be inserted.

8. **Amendment of article 311.** In article 311 of the Constitution, for Clauses (2) and (3), the following clause shall be substituted, namely :

"(2) No such person as aforesaid shall be dismissed or removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of defending himself :

Provided that this clause shall not apply—

(a) where a person is dismissed or removed on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the authority empowered to dismiss or remove a person is satisfied that for some reason to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry ; or

(c) where the President or Governor or Rajpramukh, as the case may be, is satisfied that in the interest of the

security of the State it is not expedient to hold such inquiry ; or

(d) where the person to be dismissed or removed belongs to any such class of employees in a commercial or industrial establishment of the Union or of a State as the President, Governor or Rajpramukh, as the case may be, may by order specify in this behalf.

(3) If in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such an inquiry as is referred to in clause (2), the decision thereon of the authority empowered to dismiss or remove such person shall be final."

9. **Amendment of article 316.** In article 316 of the Constitution, after clause (1), the following clause shall be inserted namely :

"(1A) If the office of Chairman of a Commission becomes vacant or if any such Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall, until some person appointed under clause (1) to the vacant office has entered on the duties thereof or, as the case may be, until the Chairman has resumed his duties, be performed by such one or the other members of the Commission as the President, in the case of the Union Commission or a Joint Commission, and the Governor or Rajpramukh of the State in the case of a State Commission, may appoint for the purpose."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend certain provisions of the Constitution for the reasons indicated below.

Clause 2.—Under the proviso to article 3 of the Constitution, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State can be introduced in Parliament unless the views of the State Legislatures concerned with respect to the provisions of the Bill have been ascertained by the President. It is

desirable that there should be provision that when the States concerned are consulted the President should be enabled to prescribe the time within which the State should convey to the President their views in the matter. It is for this purpose that it is proposed to amend the proviso to article 3 of the Constitution. The intention of the proviso is only to ensure that the Legislatures of all the States affected by a reorganisation proposal have a reasonable opportunity of expressing their views.

Clause 3.—Articles 100 and 189 of the Constitution contain provisions in regard to the quorum of either House of Parliament and either House of a State Legislature which in practice have been found to be unduly rigid. In particular, clause (4) of each of these two articles, which imposes a duty on the Chairman or Speaker or the person acting as such either to adjourn the House or to suspend the meeting whenever there is no quorum, has given rise to practical difficulties. It does not seem necessary to have such detailed and rigid provisions in the Constitution itself for regulating quorum. It should be sufficient to indicate that the quorum would normally be one-tenth of the total membership of the House and leave the rest to be regulated by rules of procedure of the House. Clause 3 of the Bill seeks to amend articles 100 and 189 accordingly.

Clause 4.—The decision of the Supreme Court in Election Commissioner *Vs.* Saka Venkata Rao (1953 S.C.R. 114) that articles 190(3) (a) and 192(1) of the Constitution are applicable only to disqualifications to which a member "becomes subject" after he has been elected as such, leads to an anomalous position. Where a candidate under a disqualification gets elected and no election petition is lodged against him, he can continue as a member despite the mandatory provision in article 102(1) or, as the case may be, article 191 (1) that he shall be disqualified, not only for being chosen as, but also for being a member.

Article 103 and 192 refer vaguely to questions as to whether a member has become subject to a disqualification without indicating how or before whom the question has to be raised and the proper method for referring the question for the decision of the President or the Governor. Although these articles appear to

make the President and the Governor the deciding authorities, they have to obtain the opinion of the Election Commission and give their decision according to that opinion. This appears to be an unnecessarily round-about method. The necessity for bringing in the Head of State into disputes of this type is not at all clear. As a matter pertaining to the due constitution of a House of a Legislature it would be more appropriate for the question to be raised before the Speaker or Chairman and then referred to the Election Commission for decision.

In order to remove these anomalies and difficulties, it is proposed in clause 4 of the Bill to omit sub-clause (a) of article 101(3) and sub-clause (a) of article 190 (3) and to revise articles 103 and 192.

Clause 5.—Articles 148 (4) and 319 render respectively the Comptroller and Auditor-General and the Chairman and members of Public Service Commissions ineligible for further office either under the Government of India or under the Government of any State. Since these two articles do not contain an explanation on the lines of articles 102 (2) and 191(2), the inference is that the prohibition extends to the office of a minister for the Union or for a State. It is considered that there should be no bar to the Comptroller and Auditor-General or a member of a Public Service Commission having a political career after retirement and becoming a minister. It is accordingly proposed to insert explanations in articles 148 (4) and 319 on the same lines as those contained in articles 102 (2) and 191 (2).

Clause 6.—Article 276(2) provides that the total amount payable in respect of any one person to the State or to any one local authority by way of taxes on professions, trades, callings and employments shall not exceed Rs. 250 per annum. The State Governments and local bodies have been finding this limit to be too low. The Local Finance Enquiry Committee in 1951 and the Taxation Enquiry Commission this year have both recommended raising this limit. It is accordingly proposed to amend article 276(2) raising the limit to Rs. 1,000.

Clause 7.—India's sovereign rights under international law over the sea-bed and sub-soil of the continental shelf adjoining its

territory and beyond its territorial waters have recently been asserted in a President's proclamation. As a corollary to this assertion it is necessary to provide in the Constitution that this sea-bed and all things of value underlying it vest in the Union in the same way as all lands, minerals, and other things of value underlying the ocean within the territorial waters by virtue of article 297. It is accordingly proposed to amend that article by referring to the continent shelf of India along with the territorial waters of India.

Clause 8.—Article 311(2) provides that no civil servant shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. This has been interpreted by the courts as providing the civil servant an additional statutory opportunity after a definite conclusion has been reached as to the actual punishment proposed to be inflicted on him. Thus, in practice, two opportunities have to be given at two different stages of the departmental inquiry which consequently becomes a long-drawn affair.

Secondly, the article extends, not only to dismissal and removal from service, but also to reduction in rank. This latter expression has been interpreted differently by different authorities and courts. Furthermore, there does not seem to be sufficient justification for placing reduction in rank on a par with the much more severe punishments of dismissal and removal from service and given a special constitutional safeguard.

Thirdly, a large number of persons are employed in the commercial and industrial establishments of the Central Government, as well as of the State Governments. Being technically civil servants these persons are entitled to the protection of this article in addition to the privileges they enjoy under the general labour laws. Since this is not conducive to the maintenance of proper discipline and efficient administration, it is considered that there should be power to exclude specified categories of commercial or industrial employees of Government from the purview of the article.

It is accordingly proposed in clause 8 to revise clauses (2) and (3) of article 311.

Clause 9.—There is no provision in article 316 for the appointment of an acting Chairman of a Public Service Commission when that office is vacant or when the permanent Chairman is on leave or otherwise unable to perform the duties of his office. It is, therefore, proposed in clause 9 to insert a clause in article 316 providing for the appointment of an acting Chairman in those circumstances.

New Delhi ;
The 18th November, 1955. C.C. BISWAS

THE CONSTITUTION (SIXTH AMENDMENT) BILL, 1955

(Bill No. 61 of 1955)

(As introduced in the Lok Sabha on 21st November, 1955)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Sixth Amendment) Act, 1955.

2. **Amendment of article 216.** In article 216 of the Constitution, the proviso shall be omitted.

3. **Amendment of article 217.** In article 217 of the Constitution, in clause (1), for the words "shall hold office until he attains the age of sixty years", the following words and figures shall be substituted, namely :

> "shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case until he attains the age of sixty years."

4. **Substitution of new article for article 220.** For article 220 of the Constitution, the following article shall be substituted, namely :—

> "220. No person who, after the commencement of this Constitution, has held office as a permanent Judge of a High Court shall plead or act in any court or before any authority

in India except the Supreme Court and the other High Courts".

5. **Substitution of new article for article 224.** For article 224 of the Constitution, the following article shall be substituted, namely :

"224. **Appointment of additional and acting Judges.** (1) If by reason of any temporary increase in the business of a High Court or by reason of arrears of work therein, it appears to the President that the number of the Judges of that Court should be for the time being increased, the President may appoint duly qualified persons to be additional Judges of the Court for such period not exceeding two years as he may specify.

(2) When any Judge of a High Court other than the Chief Justice is by reason of absence or for other reason unable to perform the duties of his office or is appointed to act temporarily as Chief Justice, the President may appoint a duly qualified person to act as a Judge of that Court until the permanent Judge has resumed his duties.

6. **Insertion of new article 258A.** After article 258 of the Constitution, the following article shall be inserted, namely :

"258A. **Powers of the States to entrust functions to the Union or its officers.** Notwithstanding anything in this Constitution, the Governor or Rajpramukh of a State, may with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State extends."

7. **Substitution of new article for article 298.** For article 298 of the Constitution, the following article shall be substituted, namely :

"298. The executive power of the Union and of each State shall extend to the carrying of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose :

Provided that—

(a) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which Parliament may make laws, be subject in each State to legislation by the State : and

(b) the said executive power of each State shall, in so far as such trade or business or such purpose is not one with respect to which the State Legislature may make laws, be subject to legislation by Parliament."

8. **Amendment of the Second Schedule.** In the Second Schedule to the Constitution, in paragraph 10, the sub-paragraph (1), the following proviso shall be added, namely :

"Provided that if a Judge of any High Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his salary in respect of service in the High Court shall be reduced by the amount of that pension."

9. **Amendment of certain provisions relating to ancient and historical monuments, etc.** In each of the following provisions of the Constitution, namely :

(i) article 49,

(ii) entry 67 of the Union List,

(iii) entry 12 of the State List, and

(iv) entry 40 of the Concurrent List,

for the words "declared by Parliament by law", the words "declared by or under law made by Parliament" shall be substituted.

10. **Modification of entries in the Lists relating to acquisition and requisitioning of property.** In the Seventh Schedule to the Constitution, entry 33 of the Union List and entry 36 of the State List shall be omitted and for entry 42 of the Concurrent List, the following entry shall be substituted, namely :

11. **Amendment of entry 24 of State List.** In the Seventh Schedule to the Constitution, in entry 24 of the State List, for the word and figures "entry 52", the words and figures "entry 7 and 52" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend 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.

Clauses 2 to 5.—As regards the High Courts, the main amendments proposed are in clauses 4 and 5 of the Bill. An important factor affecting the selection of High Court Judges from the bar is the total prohibition contained in article 220 of the Constitution on practice after retirement. It is proposed 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.

The provision in article 224 for recalling retired judges to function on the bench for short periods has been found to be neither adequate nor satisfactory. It is therefore proposed in clause 5 to replace this article by a provision for the appointment of additional judges to clear off arrears and for the appointment of acting judges on temporary vacancies. The amendments of articles 216 and 217 proposed in clauses 2 and 3 of the Bill are more or less consequential.

Clause 6.—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 or Rajpramukh 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 developmental projects in the States. It is proposed to fill the lacuna by a new article 258A.

Clause 7.—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 undertakings, 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 the Union.

Clause 8.—A minor amendment to paragraph 10 of the Second Schedule relating to the salaries to High Court judges in Part A States is proposed in this clause. 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 the Supreme Court in similar circumstances.

Clause 9.—Entry 67 of the Union List refers to "ancient and historical monuments and records, and archaeological sites and remains, declared by Parliament by law to be of national importance.' A large number of ancient monuments, archaeological 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 10.—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 and to 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 11.—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.

New Delhi ;
The 18th November, 1955. C.C. BISWAS

THE CONSTITUTION (SEVENTH AMENDMENT) BILL, 1955

(Bill No. 63 of 1955)

(As introduced in the Lok Sabha on 28th November, 1955)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Seventh Amendment) Act, 1955.

2. **Amendment of article 3.** In article 3 of the Constitution, for the proviso, the following proviso shall be substituted, namely :—

> "Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States specified in Part A or Part B of the First Schedule, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference."

STATEMENT OF OBJECTS AND REASONS

Under the proviso to article 3 of the Constitution, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State can be introduced in Parliament, unless the views of the State Legislatures concerned with respect to the provisions of the Bill have been ascertained by the President. The intention of this proviso is only to ensure that all the States affected by the Re-organisation proposals have reasonable opportunity of expressing their views. It is desirable that when the States concerned are consulted, the President should be able to prescribe the time within which the States should convey to the President their views in the matter. It is proposed to amend the proviso to article 3 of the Constitution for this purpose.

New Delhi : C.C. BISWAS
The 26th November, 1955.

STATEMENT OF OBJECTS AND REASONS

(Bill No. 26 of 1963)

(As introduced in Lok Sabha on 6th May, 1963)

A Bill further to amend the Constitution of India.

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

1. **Short title.** This Act may be called the Constitution (Seventeenth Amendment) Act, 1963.

2. **Amendment of article 31A.** In article 31A of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted and shall be deemed always to have been substituted, namely :

'(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any jagir, inam or muafi or other similar grant and in the State of Madras and Kerala, any janmam right ;

(ii) any land held under Ryotwari settlement ;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture and sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans.'

3. **Amendment of Ninth Schedule.** In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely :

"21. The Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).

22. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).

23. The Andhra Pradesh (Telengana Area) Jagirs (Commutation) Regulation (Amendment) Act, 1961 (Andhra Pradesh Act XVIII of 1961).

24. The Andhra Pradesh (Telengana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).

25. The Assam State Acquisition of Zamindaries Act, 1951 (Assam Act XVIII of 1951).

26. The Assam Fixation of Ceiling on Land Holdings Act, 1956 (Assam Act of 1957).

27. The Assam State Acquisition of Lands belonging to Religious or Charitable Institutions of Public Nature Act, 1959 (Assam Act IX of 1961).

28. The Assam Consolidation of Holdings Act, 1960 (Assam Act XIX of 1961).

29. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).

30. The Bihar Land Reforms (Amendment) Act, 1959 (Bihar Act XVI of 1959).
31. The Bihar Land Reforms (Fixation of Ceiling, Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962).
32. The Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949 (Bombay Act XXXII of 1949).
33. The Bombay Watwa Vazifdari Rights Abolition Act, 1950 (Bombay Act LXII of 1950).
34. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1951 (Bombay Act XII of 1951).
35. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1951 (Bombay Act XXXIV of 1951).
36. The Bombay Tenancy and Agricultural Lands (Third Amendment) Act, 1951 (Bombay Act XLV of 1951).
37. The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951 (Bombay Act XLVII of 1951).
38. The Bombay Land Tenures Abolition (Compensation Application Extension of Date) (Amendment) Act, 1952 (Bombay Act III of 1952).
39. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952 (Bombay Act XXXIII of 1952).
40. The Bombay Saranjam Jagirs and other Inams of Political Nature Resumption Rules, 1952.
41. The Bombay Land Tenures Abolition (Amendment) Act, 1953 (Bombay Act XXXVIII of 1953).
42. The Bombay Personal Inams Abolition Act, 1952 (Bombay Act XLII of 1953).
43. The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 (Bombay Act XLIII of 1953).
44. The Bombay Kauli and Katuban Tenures (Abolition) Act, 1953 (Bombay Act XLIV of 1953).
45. The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953 (Bombay Act XLV of 1953).

46. The Bombay Merged Territories (Baroda Watan Abolition Act, 1953 (Bombay Act XLVI of 1953).
47. The Bombay Merged Territories Matadari Tenure Abolition Act, 1953 (Bombay Act XLVIII of 1953).
48. The Bombay Land Tenures Abolition (Recovery of Records) Act, 1953 (Bombay Act L of 1953).
49. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1953 (Bombay Act LX of 1953).
50. The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bombay Act LXX of 1953).
51. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953 (Bombay Act LXXI of 1953).
52. The Bombay (Okhamandal Salami Tenure Abolition) Act, 1953 (Bombay Act I of 1954).
53. The Bombay Pargana and Kulkarni Watans (Abolition) Amendment Act, 1954 (Bombay Act XXIX of 1954).
54. The Bombay Merged Territories and Areas (Jagirs Abolition Act, 1953 (Bombay Act XXXIX of 1954).
55. The Bombay Amending Act, 1954 (Bombay Act LXIII of 1954).
56. The Bombay Service Inams Useful to Community (Gujarat and Konkan) Resumption Rules, 1954.
57. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1954 (Bombay Act I of 1955).
58. The Bombay Bhil Naik Inams Abolition Act, 1955 (Bombay Act XXI of 1955).
59. The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bombay Act XXII of 1955).
60. The Bombay Shilotri Rights (Kolaba) Abolition Act, 1955 (Bombay Act XLVII of 1955).
61. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (Bombay Act L of 1955).

62. The Bombay Land Tenures Abolition (Amendment) Act, 1955 (Bombay Act LI of 1955).

63. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 (Bombay Act XIII of 1956).

64. The Bombay Land Tenures Abolition (Amendment) Act, 1956 (Bombay Act XL of 1956).

65. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1957 (Bombay Act XV of 1957).

66. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1957 (Bombay Act XXXVIII of 1957).

67. The Bombay Taluqdari Tenure (Abolition) Amendment Act, 1957 (Bombay Act XVIII of 1958).

68. The Bombay Land Tenure Abolition Laws (Amendment) Act, 1958 (Bombay Act LVII of 1958).

69. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1958 (Bombay Act LXIII of 1958).

70. The Bombay Land Tenures Abolition (Amendment) Act, 1958 (Bombay Act XCIII of 1958).

71. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).

72. The Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (Bombay Act XCIX of 1958).

73. The Bombay Inferior Village Watans Abolition Act, 1958 (Bombay Act I of 1959).

74. The Bombay Ankadia Tenure (Saurashtra Area) Abolition Act, 1959 (Bombay Act XXXI of 1959).

75. The Bombay Bandhijama, Udhad and Ugadia Tenures Abolition Act, 1959 (Bombay Act XXXV of 1959)

76. The Bombay (Saurashtra Area) Aghat Tenure and Ijaras Abolition Act, 1959 (Bombay Act LXV of 1959).

77. The Bombay Taluqdari Tenure (Abolition) Amendment Act, 1960 (Bombay Act XVIII of 1960).

78. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960 (Gujarat Act XVI of 1960).
79. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVII of 1961).
80. The Gujarat Patel Watans Abolition Act, 1961 (Gujarat Act XLVIII of 1961).
81. The Bombay Taluqdari Tenure Abolition (Gujarat Amendment Act, 1962 (Gujarat Act XV of 1962).
82. The Sagbara and Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).
83. The Saurashtra Land Reforms Act, 1951 (Saurashtra Act XXV of 1951).
84. The Saurashtra Barkhali Abolition Act, 1951 (Saurashtra Act XXVI of 1951).
85. The Saurashtra Estates Acquisition Act, 1952 (Saurashtra Act III of 1952).
86. The Bombay Tenancy and Agricultural Lands (Amendment Act, 1960 (Maharashtra Act IX of 1961).
87. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXVII of 1961).
88. The Maharashtra Revenue Patels (Abolition of Office) Act, 1962 (Maharashtra Act XXXV of 1962).
89. The Bombay Tenancy and Agricultural Lands (Amendment) Act, 1962 (Maharashtra Act XXXVI of 1962).
90. The Bombay Tenancy and Agricultural Lands (Second Amendment) Act, 1962 (Maharashtra Act VIII of 1963).
91. The West Khandesh Mehwassi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961 (Maharashtra Regulation 1 of 1962).
92. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).
93. The Hyderabad Abolition of Inams Act, 1954 (Hyderabad Act VIII of 1955).

94. The Kerala Agrarian Relations Act, 1960 (Kerala Act IV of 1961).

95. The Madhya Bharat Zamindari Abolition Act, Samvat 2008 (Madhya Bharat Act XIII of 1951).

96. The Madhya Bharat Abolition of Jagirs Act, Samvat 2008 (Madhya Bharat Act XXVIII of 1951).

97. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).

98. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).

99. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1951 (Madras Act XVII of 1951).

100. The Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Act, 1951 (Madras Act XXXV of 1951).

101. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1953 (Madras Act IX of 1953).

102. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1954 (Madras Act XXXIV of 1954).

103. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955).

104. The Madras Cultivating Tenants (Payments of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).

105. The Madras Estates (Supplementary) Act, 1956 (Madras Act XXX of 1956).

106. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1956 (Madras Act XLIV of 1956).

107. The Madras Estates (Abolition and Conversion into Ryotwari), Estates Land (Reduction of Rent) and Estates (Supplementary Amendment) Act, 1958 (Madras Act XXXIV of 1958).

108. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1961 (Madras Act XVIII of 1961).

109. The Madras Estates (Supplementary) Amendment Act, 1961 (Madras Act XXXV of 1961).

110. The Madras Occupants of Kudiyiruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).

111. The Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).

112. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).

113. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).

114. The Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act I of 1955).

115. The Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act XVIII of 1955).

116. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).

117. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).

118. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).

119. The Orissa Land Reforms Act, 1960 (Orissa Act XVI of 1960).

120. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).

121. The PEPSU Tenancy and Agricultural Lands Act, 1955 (PEPSU Act XIII of 1955).

122. The Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act VI of 1952).

123. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).

124. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).

125. The Rajasthan Kasar Bhom Abolition Act, 1961 (Rajasthan Act XXXV of 1961).

126. The Ajmer Abolition of Intermediaries and Land Reforms Act, 1955 (Ajmer Act III of 1955).

127. The Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Act, 1952 (U.P. Act XVI of 1953).

128. The Uttar Pradesh Land Reforms (Amendment) Act, 1954 (U.P. Act XX of 1954).

129. The Jaunsar Bawar Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act XI of 1956).

130. The Uttar Pradesh Land Reforms (Amendment) Act, 1956 (U.P. Act XVIII of 1956).

131. The Uttar Pradesh Urban Areas Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act IX of 1957).

132. The Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Act, 1958 (U.P. Act XIV of 1958).

133. The Uttar Pradesh Land Reforms (Amendment) Act, 1958 (U.P. Act XXXVII of 1958).

134. The Uttar Pradesh Government Estate Thekedari Abolition Act, 1958 (U.P. Act 1 of 1959).

135. The Kumaun and Uttarkhand Zamindari Abolition and Land Reforms Act, 1960 (U.P. Act XVII of 1960).

136. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (U.P. Act I of 1961).

137. The Uttar Pradesh Land Laws (Amendment) Act, 1962 (U.P. Act XXI of 1962).

138. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954).

139. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).

140. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).

141. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).

142. The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 (Himachal Pradesh Act XV of 1954).

143. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).

144. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).

Explanation—Any reference in entries 21 to 144 of this Schedule to any Act, Regulation or Rule (other than an Amending Act) shall be construed as including a reference to such Act, Regulation or Rule as amended from time to time upto the first day of April, 1963."

STATEMENT OF OBJECTS AND REASONS

The Kerala Agrarian Relations Act, 1961 was struck down by the Supreme Court in its application to ryotwari lands transferred from the State of Madras to Kerala. The Act was further struck down by the High Court of Kerala in its application to lands other than estates in Malabar and Travancore. It was held that the provisions of the Act were violative of articles 14, 19 and 31 of the Constitution and that the protection of article 31A of the Constitution was not available to those lands, as they were not estates.

2. The protection of article 31A is available only in respect of such tenures as were estates on the 26th January, 1950 when the Constitution came into force. The expression "estate" has been defined differently in different States and, as a result of the transfer of land from one State to another on account of the re-organisation of States, the expression has come to be defined differently in different parts of the same State. Moreover, many of the land reform enactments relate to lands which are not included in an estate. It is, therefore, proposed to amend the definition of "estate" in article 31A of the Constitution by including therein lands held under ryotwari settlement and also other lands in respect of which provisions are normally made in land reform enact-

ments. It is also proposed to amend the Ninth Schedule by including therein the State enactments relating to land reform in order to remove any uncertainty or doubt that may arise in regard to their validity.

3. The Bill seeks to achieve these objects.

New Delhi ;
The 29th April, 1963. Asoke K. Sen.

THE CONSTITUTION (EIGHTEENTH AMENDMENT) BILL, 1956

(Bill No. 36 of 1964)

[As introduced in Lok Sabha on 24th April, 1964]

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifteenth year of the Republic of India as follows :

1. **Short title.**—This Act may be called the Constitution (Eighteenth Amendment) Act, 1964.

2. **Amendment of article 359**—In article 359 of the Constitution,—

(a) after clause (1), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :

"(2) While an order made under clause (1) in relation to any of the rights conferred by Part III is in operation, nothing in that Part conferring those rights shall restrict the power of the State as defined in the said Part to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect.";

(b) the existing clauses (2) and (3) shall be re-numbered as clauses (3) and (4) ;

(c) in clause (3) as so re-numbered, after the words "the territory of India" the words "or may apply to all persons or any

The Bill seeks to achieve the above objects.

New Delhi ;

The 30th April, 1966. G.L. NANDA

THE CONSTITUTION (TWENTY-FIRST AMENDMENT) BILL, 1966

[*As introduced in the Rajya Sabha on 21st November, 1966 as the* [*Constitution (Twenty-Second Amendment) Bill, 1966*]

(Bill No. XXIV of 1966)

A Bill further to amend the Constitution of India.

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

1. **Short title.**—This Act may be called the Constitution (*Twenty-Second Amendment*) Act, 1966.

2. **Amendment of Eighth Schedule.**—In the Eighth Schedule to the Constitution,—

(a) entries 12 to 14 shall be renumbered as entries 13 to 15 respectively, and

(b) before entry "13" as so renumbered, the entry "12. Sindhi" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

There have been persistent demands from the Sindhi-speaking people for the inclusion of the Sindhi language in the Eighth Schedule to the Constitution. Although at present Sindhi is not a regional language in a well-defined area, it used to be the language of a province of the undivided India and, but for partition, would have continued to be so. The Commissioner for Linguistic Minorities has also recommended the inclusion of Sindhi in the Eighth Schedule to the Constitution. On 4th November, 1966, it was announced that Government had decided to include the Sindhi language in the Eighth Schedule to the Constitution. The Bill seeks to give effect to this decision.

New Delhi ;

The 15th November, 1966. Y.B. CHAVAN

SYNOPTICAL DETAILS REGARDING OFFICIAL AMENDMENTS

Discussed in Parliament

Constitution (First Amendment)

1. *Introduced* in the Provisional Parliament on 12th May, 1951 by the Prime Minister and Minister of External Affairs, Shri Jawaharlal Nehru.

2. *Discussion on the motion for reference to a Select Committee* held on 16th, 17th and 18th may, 1951 (For three days, four days after the introduction of the Bill).

3. *Total number of hours discussed*; 13hrs. 40 mts., split up as follows : 16th May: 9·45 a.m. to 1 p.m.; 17th May: 9·40 a.m. to 1 p.m. and 4 p.m. to 6·45 p.m.; and 18th May : 9·40 a.m. to 1 p.m. and 4·40 p.m. to 5·40 p.m.

4. *Report of the Select Committee submitted* on 25th May, 1951. (Originally the Select Committee was to submit its report on 21st May but as the debate was extended to three days, the date was also extended to 23rd May. It was further extended to 25th May, 1951).

5. *Members of the Select Committee*: 21 (including the Mover), namely, (1) Shri Jawaharlal Nehru (Chairman); (2) Prof. K.T. Shah; (3) Sardar Hukam Singh; (4) Pandit Hriday Nath Kunzru; (5) Dr. Shyam Prasad Mookerjee; (6) Shri Naziruddin Ahmed; (7) Shri C. Rajagopalachari; (8) Shri L. Krishnaswami Bharathi; (9) Shri A.P. Jain; (10) Shri T.R. Deogirikar; (11) Dr. B.R. Ambedkar; (12) Shri V.S. Sarvate; (13) Shri Mohanlal Gautham; (14) Shri R.K. Sidhwa; (15) Shri Khandubhai Desai; (16) Shri K. Hanumanthaiya; (17) Shri Raj Bahadur; (18) Smt. G. Durgabai; (19) Shri Manilal Chaturbhai Shah; (20) Shri Dev Kanta Borooah; and (21) Shri Satya Narayan Sinha.

6. *Amendments moved*: (a) For eliciting public opinion by Shri Naziruddin Ahmed; Shri Sarangdhar Das; Sardar Hukam Singh; Shri Syamnandan Sahaya; and Dr. S.P. Mookerjee;

(b) For extension of time by Shri H.V. Kamath.

7. *Members who participated in the motion for reference to Select Committee*: 24 (excluding the Mover), namely, (1) Dr.

S.P. Mookerjee (West Bengal) ; (2) Prof. N.G. Ranga (Madras) ; (3) Shri Kameshwar Singh (Bihar) ; (4) Pandit Thakur Das Bhargava (Punjab) ; (5) Pandit Hirday Nath Kunzru (Uttar Pradesh) ; (6) Smt. Renuka Ray (West Bengal) ; (7) Shri H.V. Kamath (Madhya Pradesh); (8) Shri Syamnandan Sahaya (Bihar) ; (9) Shri Deshbandhu Gupta (Delhi) ; (10) Shri Kala Venkata Rao (Madras) ; (11) Shri Hussain Imam (Bihar) ; (12) Shri M.P. Mishra (Bihar) ; (3) Pandit K.C. Sharma (Uttar Pradesh) ; (14) Shri Shankaraiya (Mysore) ; (15) Dr Ambedkar (The Minister of Law) ; (16) Shri Sarangdhar Das (Orissa) : (17) Shri Ethirajulu Naidu (Mysore) ; (18) Shri Ramalingam Chettiar (Madras) ; (19) Shri J.P. Srivastava (Uttar Pradesh); (20) Prof. K.K. Bhattacharya (Uttar Pradesh) ; (21) Ch. Ranbir Singh (Punjab) ; (22) Shri Himatsinghka (West Bengal) ; (23) Shri Ghule (Madhya Bharat) ; and (24) Shri R.K. Chaudhuri (Assam).

8. *Discussion on the Report of the Select Committee* held on 29th May, 30th May and 31st May, 1951.

9. *Time allotted for general discussion :* Three days by general agreement.

10. *Total number of hours discussed* : 10hrs. 5 mts., split up as follows : 29th May: 9·40 a.m. to 1 p.m. ; 30th May : 9·40 a.m. to 1 p.m. ; and 31st May : 9·35 a.m. to 1 p.m.

11. *Members who participated on the motion that the Bill as reported by the Select Committee be taken into consideration* : 13 (excluding the Mover), namely, (1) Prof K.T. Shah (Bihar) ; (2) Shri Naziruddin Ahmed (West Bengal) ; (3) Rev. D'souza (Madras) ; (4) Dr. S.P. Mookerjee (West Bengal) ; (5) Pandit Thakur Das Bhargava (Punjab) ; (6) Acharya Kripalani (Uttar Pradesh) ; (7) Prof. S.N. Mishra (Bihar) ; (8) Shri Deshbandhu Gupta (Delhi) ; (9) Shri C. Rajagopalachari (The Minister of Home Affairs) ; (10) Shri D.D. Pant (Uttar Pradesh) ; (11) Dr. Deshmukh (Madhya Pradesh) ; (12) Pandit H.N. Kunzru (Uttar Pradesh) ; and (13) Shri Frank Anthony (Madhya Pradesh).

12. *Voting on the motion that the Bill as reported by the Select Committee be taken into consideration* ; 246 Ayes and 14 Noes.

13. *Clause by clause consideration held on* 1st and 2nd June, 1951.

14. *Time allotted by general agreement for the above* : Two days.

15. *Total number of hours discussed* : 14hrs. 55mts., split up as follows : 1st : 9·35 a.m. to 1 p m. and 3 30 p.m. to 7·20 p.m. 2nd : 8·35 a.m. to 1 p.m. and 3·30 p.m. to 8·45 p.m.

16. *Discussion on clauses* :

(1) Clause 2.—(Amendment of article 15)

(a) *Amendments moved by* : (1) Prof. S.L. Saksena ; (2) Sardar Hukam Singh ; (3) Prof. K.T. Shah ; (4) Dr. S P. Mookerjee ; (5) Shri Hussain Imam ; (6) Shri Naziruddin Ahmed ; and (7) Shri H.V. Kamath.

(b) *Participants in the discussion on the clause* : (1) Shri M.A. Ayyangar ; (2) Prof. S.L. Saksena ; (3) Prof. K.T. Shah ; (4) Sardar Hukam Singh ; (5) Dr. S.P. Mookerjee ; (6) Shri Hussain Imam ; (7) Shri Kamath ; and (1) Shri Naziruddin Ahmed.

(c) *Time allotted* : One hour.

(d) *Voting on the clause* : 243 Ayes and 5 Noes.

(2) Clause 3.—(Amendmend of article 19 etc.)

(a) *Amendments moved by* : (1) Prof. S.K. Saksena ; (2) Shri Syamnandan Sahaya ; (3) Pandit Thakur Das Bhargava ; (4) Prof. K.T. Shah ; (5) Shri Deshbandhu Gupta ; (6) Shri Nazirudin Ahmed ; (7) Shri Sarangdhar Das ; (8) Sardar Hukam Singh ; (9) Shri Hussain Imam ; (10) Dr. S.P. Mookerjee ; (11) Prof K.K. Bhattacharya ; (12) Shri H.V. Kamath. (13) Shri R.N. Goenka ; and (14) Pandit H.N. Kunzru.

(b) *Participants in the discussion on the clause* : (1) Smt. Durgabai ; (2) Pandit Kunzru ; (3) Dr. S.P. Mukerjee ; and (4) Dr. B.R. Ambedkar.

(c) *Time allotted* : Two hours.

(d) *Voting on the clause* : 228 Ayes and 19 Noes.

(3) Clauses 4, 5 and 14 taken together :

(i) clause 4.—(Insertion of new article 31A)

(a) *Amendments moved by :* (1) Prof. K.T. Shah : (2) Shri Naziruddin Ahmed ; (3) Prof. S.L. Saksena ; (4) Dr. Ambedkar ; (5) Ch. Ranbir Singh; and (6) Shri Hussain Imam.

(ii) Clause 5.—(Insertion of new Article 31B)

(a) *Amendments moved by* : (1) Shri Naziruddin Ahmed ; (2) Prof. K.T. Shah ; (3) Shri Hussain Imam ; (4) Shri Syamnandan Sahaya.

(iii) Clause 14.—(Addition of Ninth Schedule)

(a) *Amendments moved by* : (1) Shri Naziruddin Ahmed ; (2) Shri K. Vaidya.

(b) *Participants in the discussion of clauses 4, 5 and 14* : (1) Prof. K.T. Shah ; (2) Shri Naziruddin Ahmed ; (3) Prof. S.L. Saksena ; (4) Shri Hyder Hussein ; (5) Shri K. Vaidya ; (6) Shri T. Hussain ; (7) Shri Hussain Imam : (8) Ch. Ranbir Singh ; and (9) Shri Syamnandan Sahaya.

(c) *Time alloted* ; One and a half hours.

(d) (i) Voting on clause 4 : 239 Ayes and 6 Noes.

(ii) Voting on clause 5 : 238 Ayes and 7 Noes.

(iii) Voting on clause 14 : 238 Ayes and 7 Noes.

(4) Clauses 6, 7, 8 and 9 taken together :

(i) Clause 6.—(Amendment of article 85)

(a) *Amendments moved by* : (1) Prof. K.T. Shah ; (2) Shri H.V. Kamath.

(ii) Clause 7.—(Amendment of article 87)

(a) *Amendments moved by* : (1) Dr. Deshmukh ; (2) Shri H.V. Kamath.

(iii) Clause 8.—(Amendment of article 174)

(a) *Amendments moved by* : Shri H.V. Kamath.

(iv) Clause 9.—(Amendment of article 176)

(a) *Amendments moved by* : Shri H.V. Kamath.

(b) *Participants in the discussion on the above clauses* : (1) Prof. K.T. Shah ; Shri H.V. Kamath ; (3) Dr. Deshmukh ; (4) Shri S.N. Das ; (5) Shri M.A. Ayyengar ; and (6) Shri C. Rajagopalachari.

(c) *Time allotted* : One hour.

(d) *Voting on the above clauses* :

(i) Clause 6 : 223 Ayes and 7 Noes.

(ii) Clause 7 : 225 Ayes and 7 Noes.

(iii) Clause 8 : 228 Ayes and 8 Noes.

(iv) Clause 9 : 229 Ayes and 8 Noes.

(5) Clauses 10 and 11 considered together.

(i) Clause 10.—(Amendment of article 341)

(a) *No amendments moved.*

(ii) Clause 11.—(Amendment of article 342)

(a) *No amendments moved.*

(b) *No discussion on the above clauses.*

(c) *Time allotted* : 45 minutes.

(d) *Voting on the above clauses* :

(i) Voting on clause 10 : 227 Ayes and 7 Noes.

(ii) Voting on clause 11 : 232 Ayes and 6 Noes.

(6) Clause 12.—(Amendment of article 372).

(a) *No amendments moved.*

(b) *Participants in the discussion on the clause* : (1) Shri Naziruddin Ahmed ; (2) Shri Shiv Charan Lal ; (3) Pandit Thakur Das Bhargava ; (4) Sardar Hukam Singh ; (5) Shri H.V. Kamath ; (6) Smt. Durgabai ; (7) Ch. Ranbir Singh ; (8) Dr. B.R. Ambedkar.

(c) *Time allotted* : No mention made.

(d) *Voting on the above clause* : 232 Ayes and 9 Noes.

(7) Clause 13.—(Amendment of article 376).

(a) *Amendments moved by*: (1) Prof. K.T. Shah ; (2) Prof. S.L. Saksena ; (3) Shri H.V. Kamath ; (4) Dr. B.R. Ambedkar.

(b) *Participants in the discussion on the above*: (1) Prof. K.T. Shah ; (2) Prof. S.L. Saksena ; (3) Shri H.V. Kamath.

(c) *Time allotted* : One hour.

(d) *Voting on the above clause* : 234 Ayes and 12 Noes.

(17) *Third Reading* : Speeches made on the motion that the Bill be passed by (1) Prof. S.L. Saksena ; (2) Seth Govind Das ; (3) Shri Gautham ; (4) Shri Mirza ; (5) Smt. Renuka Ray ; (6) Shri T.N. Singh ; (7) Shri Joachim Alva ; (8) Shri Hanumanthaiya ; (9) Shri Venkataraman ; (10) Dr. S.P. Mookerjee.

(18) *Final Voting on the motion that the Bill be passed* : 228 Ayes and 20 Noes.

At the Select Committee Stage :

1. That although the Select Committee held six sittings, neither the dates of sitting, duration of the sitting or the attendance of members are available.

2. Eight Minutes of Dissent were submitted to the Report, namely, by (1) Smt. Durgabai ; (2) Shri H.N. Kunzru ; (3) Dr. S.P. Mookerjee ; (4) Prof. K.T. Shah, Shri Naziruddin Ahmed and Sardar Hukam Singh ; (5) Sardar Hukam Singh ; (6) Prof. K.T. Shah ; (7) Shri Naziruddin Ahmed and (8) Shri Naziruddin Ahmed.

(19) *President's assent received on* : 18th June, 1951.

CONSTITUTION (SECOND AMENDMENT)

1. *Introduced in the Lok Sabha* on 18th June, 1952, by the Minister of Law and Minority Affairs, Shri C.C. Biswas.

2. *Discussion on the motion for consideration* held on 8th and 9th July, 1952 (For two days, twenty days after the introduction of the Bill).

3. *Total time devoted for discussion* : 38 mts., split up as follows : 8th July : 12.45 p.m. to 1 p.m. and 9th July : 9.40 a.m. to 10. 03 p.m.

4. *Bill circulated for eliciting opinion* by 15th October, 1952. Decision taken on 9th July after discussion on a motion moved to that effect by Shri H.N. Mukerjee. Shri Mukerjee suggested 1st November, 1952. The Prime Minister and Shri A.K. Gopalan suggested respectively, three months or end of September and 15th October. A compromise date accepted.

5. On receipt of opinions, *the provisions of the Bill referred to a Select Committee on 11th November* with instructions to report by 22nd November, 1952.

6. *Total time allotted for discussion on 11th November* : Three hours and thirty minutes.

7. *Total time taken for discussion* : 3 hrs. 27 mts., split up as follows 11.58 a.m. to 1.05 p.m. and 2.30 p.m. to 4.50 p.m.

8. *Report of the Select Committee presented* on 18th November, 1952 (Four days before the time-limit).

9. *Members of the Select Committee* : 38 (Originally 33 but at the end of the discussion on the motion of 11th November five more members were added). They were : (1) Shri Bhawanji A. Khimji ; (2) Shri Syamnandan Sahaya ; (3) Shri Gajendra Prasad Sinha ; (4) Shri K.L. More ; (5) Pandit Lingaraj Misra ; (6) Shri Rohini Kumar Chaudhuri ; (7) Pandit Lakshmi Kanta Maitra ; (8) Shri Mohanlal Saksena ; (9) Shri N.M. Lingam ; (10) Shri Udai Shankar Dube ; (11) Ch. Ranbir Singh ; (12) Shri Nemi Chandra Kasliwal ; (13) Shri Ranbir Singh Chaudhuri ; (14) Shri Govind Hari Deshpande ; (15) Sardar Amar Singh Saigal ; (16) Shri Kotha Raghuramaiah ; (17) Shri Krishnamacharya Joshi ; (18) Shri Liladhar Joshi ; (19) Shri A.M. Thomas ; (20) Shri C.R. Basappa ; (21) Shri C. Madhao Reddi ; (22) Shri Chittram Partabrai Gidwani ; (23) Smt. Renu Chakravarthy ; (24) Shri P.T. Punnose ; (25) Shri Girraj Saran Singh ; (26) Dr. Manik Chand Jatav-Vir ; (27) H.H. Maharaja Rajendra Narayan Singh Deo ; (28) Shri N.R M. Swamy ; (29) Shri Radha Charan Sharma ; (30) Shri Ranjit Singh ; (31) Shri P.N. Raja-

bhoj ; (32) Shri A.P. Jain ; (33) Shri C.C. Biswas; (34) Shri S.S. More ; (35) Shri B S. Murthy ; (36) Shri N.C. Chatterjee ; (37) Dr. S.P. Mookerjee ; and (38) Shri Ananthasayanam Ayyangar (Chairman).

10. *Members who participated in the motion for reference to Select Committee* : 17 (excluding the Mover), namely, (1) Shri Pataskar ; (2) Shri A.C. Guha ; (3) Shri M.S. Gurupadaswamy ; (4) Shri P.T. Chacko ; (5) Shri Raghuramaiah ; (6) Shri Barman ; (7) Shri T.N. Singh ; (8) Shri M.A. Ayyangar (9) Shri Velayudhan; (10) Shri U.M. Trivedi ; (11) Shri T. Subramanyam; (12) Shri Kakkan ; (13) Shri Dhulekar ; (14) Smt. Renu Chakravarthy ; (15) Dr. N.B. Khare ; (16) Shri N.M. Lingam ; and (17) Dr. S.P. Mookerjee.

11. *Discussion on the Report of the Select Committee* held on 9th, 10th and 15th December, 1952.

12. *Total number of hours discussed* : 3 hrs. 24 mts., split up as : 9th : 3.30 p.m. to 5.02 p.m., 10th : 12.10 p.m. to 1 p.m. and 15th : 11.38 a.m. to 12.40 p.m.

13. *Members who participated in the discussion on the Report of the Select Committee* : 13 (excluding the Mover), namely : (1) Shri S.V. Ramaswamy ; (2) Shri Gadgil ; (3) Shri B.C. Das ; (4) Shri Achuthan ; (5) Sardar Hukam Singh ; (6) Shri Altekar ; (7) Shri P. Subba Rao ; (8) Shri N. Somana ; (9) Shri Raghubhir Sahai ; (10) Shri Siddanajappa ; (11) Shri V.B. Gandhi ; (12) Shri G.H. Deshpande ; and (13) Shri Lokanath Mishra.

14. *Voting on the Select Committee Report*, held on 15th December : 366 Ayes and 26 Noes.

15. *Voting on the clause* 2 : 364 Ayes and 24 Noes.

16. *Voting on the motion that the Bill be passed :* 351 Ayes and 23 Noes.

At the Select Committee Stage :

1. No details are available either with regard to the number of sittings of the Select Committee, their duration or the attendance of members.

2. *A minute of dissent was submitted by* : Smt. Renu Chakravarthy.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 15th December, 1952.

2. *Discussion on the motion for consideration of the Bill as passed by the Lok Sabha held on* : 19th December. (Four days after the Bill was laid on the Table of the House).

3. *Time allotted for discussion* :

4. *Total time taken for discussion* :

5. *Members who participated in the discussion* : 9 (excluding the Mover), namely, (1) Shri P. Sundarayya ; (2) Shri Rajagopala Naidu ; (3) Shri H.N. Kunzru ; (4) Shri H.P. Saksena ; (5) Shri S. Mahanty ; (6) Prof. N.G. Ranga ; (7) Shri S.N. Muzumdar ; (8) Shri B. Das ; (9) Shri Abdul Razak.

6. *Voting on the motion that the Bill be passed by the Lok Sabha be taken into consideration* : 125 Ayes and 12 Noes.

7. Clause by clause consideration of the Bill taken up on 19th December, 1952. Clause 2 of the Bill :

(a) *No amendments were moved* ;

(b) *Members who participated in the discussion on the clause* : (1) Shri H.N. Kunzru ; (2) Shri Bhupesh Gupta ; and (3) Principal Devaprasad Ghosh;

(c) *Voting on the clause* : 124 Ayes and 14 Noes.

8. *Third Reading* : No speeches made.

9. *Voting on the motion that the Bill be passed* : 123 Ayes and 13 Noes.

10. *Presidential assent given on* : 1st May, 1953.

CONSTITUTION (THIRD AMENDMENT)

1. *Introduced in the Lok Sabha* on 6th September, 1954 by the Minister of Commerce and Industry, Shri T.T. Krishnamachari.

2. *Discussion on the motion for reference to a Joint Committee* held on 10th and 11th September, 1954. (For two days, four days after the introduction of the Bill).

3. *Time allotted for discussion* : 4 hours.

4. *Time taken for discussion* : 4hrs. 2 mts., split up as follows, 10th : 12.15 p.m. to 2.30 p.m. ; and 11th : 12.08 p.m. to 1.55 p.m.

5. The Joint Committee was originally to submit its report on 17th September but as the debate was spread over to two days and the voting took place on the fourth day, the date for the submission of the Report was extended to 20th September.

6. *Report of the Joint Committee submitted on*: 20th September, 1954.

7. *Members of the Joint Committee* : 35 (originally 36) (i.e.) 23 (originally 24) from Lok Sabha and 12 from Rajya Sabha. The Lok Sabha members were : (1) Shri Jawaharlal Nehru (Chairman) ; (2) Shri Rafi Ahmed Kidwai ; (3) Shri Upendranath Burman ; (4) Shri V.B. Gandhi ; (5) Shri Kotha Raghuramaiah ; (6) Shri N.V. Gadgil ; (7) Shri Tek Chand ; (8) Shri A.M. Thomas ; (9) Shri S. Sinha ; (10) Shri C. D. Pande ; (11) Shri Raghuvir Sahai; (12) Shri S.N. Aggarwal ; (13) Shri R. Venkataraman ; (14) Shri N.C. Kasliwal ; (15) Shri Raghevendrarao Srinivasarao Diwan ; (16) Shri Liladhar Joshi ; (17) Shri Ranbir Singh Chaudhuri ; (18) Shri K.S. Raghavachari ; (19) Shri Bhawani Singh ; (20) Shri N.C. Chatterjee ; (21) Dr. D. Ramchander ; (22) Dr. A. Krishnaswamy ; and (23) Shri T.T. Krishnamachari.

8. *Amendments moved* : (a) For circulation of the Bill for eliciting public opinion by Shri Vallatharus ; (b) For referring the Bill to a Select Committee consisting of Lok Sabha members only by Shri Bogawat.

9 *Members who participated in the motion for reference to the Joint Committee* : 10 (excluding the Mover), namely, (1) Shri Vallatharus ; (2) Shri Bogawat ; (3) Shri Ashok Mehta ; (4) Shri Tulsidas ; (5) Shri S.S. More ; (6) Pandit Thakur Das Bhargava ; (7) Shri Frank Anthony ; (8) Shri Sadhan Gupta ; (9) Shri C.C. Shah ; and (10) Pandit Munishwar Dutt Upadhyay.

10. *Voting on motion for reference to the Joint Committee adopted on* : 13th September, 1954 : 294 Ayes and 44 Noes.

11. *Discussion on the Report of the Joint Committee held on* : 22nd and 23rd September, 1954.

12. *Time allotted for discussion* : 6 hours in all.

13. *Time taken for discussion* : 6 hrs. 6 mts., split up as follows, 22nd : 2.10 p.m. to 5.02 p.m. ; 23rd : 12.01 p.m. to 1.30 p.m. and 2.30 p.m. to 4.15 p.m.

14. *Members who participated in the motion on the Joint Committee Report* : 14 (excluding the Mover), namely, (1) Shri Ashok Mehta ; (2) Shri K.K. Basu ; (3) Shri N.V. Gadgil ; (4) Shri Raghuramaiah ; (5) Dr. Krishnaswamy ; (6) Shri C.C. Shah ; (7) Shri Raghavachari ; (8) Shri Mul Chand Dube ; (9) Shri V.B. Gandhi ; (10) Shri U.M. Trivedi ; (11) Shri Matthen ; (12) Shri R. Venkataraman ; (13) Shri T.K. Chaudhuri ; and (14) Shri Tek Chand.

15. *Voting on the Report of the Joint Committee* : 283 Ayes and 33 Noes.

16. *Clause by clause consideration of the Bill held on* : 23rd September, 1954.

17. *Discussion on the clause* :

Clause 2.—(Amendment of the Seventh Schedule)—

(a) *Amendment moved by* : (1) Dr. Krishnaswamy ; (2) Shri Raghavachari ; (3) Shri Sivamurthi Swami ; and (4) Shri N.B. Chaudhuri.

(b) *Participants in the discussion on the above clause* : (1) Shri N.C. Chatterjee ; (2) Shri Pataskar ; and (3) Shri Venkataraman.

(c) *Voting on the clause* : 288 Ayes and 35 Noes.

18. *Third Reading* : Shri H.N. Mukerjee alone spoke at this stage.

19. *Final voting on the motion that the Bill be passed* : 286 Ayes and 33 Noes.

At the Joint Committee stage :

1. *Held two sittings*, namely, on 17th and 18th September.

2. *Number of members present* : (1) 17th sitting : All except Shri C.D. Pande and Dr. D. Ramchander (both from the Lok Sabha) ; (2) 18th sitting : all except the above two and Shri N.V. Gadgil, Shri Tek Chand, Shri S.N. Aggarwal, Shri Liladhar Joshi, Shri Ranbir Singh Chaudhuri and Shri Biswanath Das (all except Shri Biswanath Das from the Lok Sabha)

3. *Duration of the sittings* : Total : 2 hrs. 35 mts., split up as, 17th : 2 hrs. and 15 mts. (6 p.m. to 8.15 p.m.) : 18th : 20 mts.

4. *A minute of dissent was submitted by* : Shri N.C. Chatterjee, Shri K.S. Raghavachari, Dr. A. Krishnaswamy, Smt. Parvati Krishnan, Shri B.C. Ghosh, Shri V. Venkataramana and Shri H.C. Mathur.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Labha on 13th September, 1954.

2. *Discussion on the motion for reference to the Joint Committee held on* : 15th and 16th September, 1954.

3. *Total time allotted for discussion* :

4. *Total time taken for discussion* : 6 hrs., split up as, 15th : 3 hrs. 30 mts. and 16th : 2 hrs. 30 mts.

5. *Members of the Joint Committee from the House* : 12 : (1) Shri C.C. Biswas ; (2) Shri S.V. Krishnamurhty Rao ; (3) Shri Biswanatha Das ; (4) Shri Fakhruddin Ali Ahmed : (5) Dr. W.S. Barlingay ; (6) Shri Jagan Nath Kaushal ; (7) Shri Chandulal P. Parikh ; (8) Shri R.C. Gupta ; (9) Shri Rajagopal Naidu ; (Shri V. Venkataramana substituted) ; (10) Smt Parvathi Krishnan ; (11) Shri H.C. Mathur and (12) Shri B.C. Ghose.

6. *Amendment moved* : For the postponement of the date of submission of the Joint Committee Report to the first day of the next session by Shri Rajendra Pratap Sinha.

7. *Members who participated in the motion for reference to the Joint Committee :* 10 (excluding the Mover), namely, (1) Shri S. Mahanty ; (2) Shri Akbar Ali Khan ; (3) Dr. B.R. Ambedkar ; (4) Shri Rajagopal Naidu ; (5) Shri S. Banerjee ; (6) Shri R.P.

Sinha ; (7) Shri H.N. Kunzru ; (8) Shri S.N. Mazumdar ; (9) Shri Kishen Chand ; and (10) Shri Lavji Lakhamshi.

8. *Voting on the motion for reference to the Joint Committee* : 142 Ayes and 16 Noes.

9. *Bill as passed by the Lok Sabha laid on the Table of the House* : 24th September. 1954.

10. *Discussion on the Bill as passed by the Lok Sabha held on* : 27th and 28th September, 1954. (Three days after the Bill was laid on the Table of the House).

11. *Time allotted for discussion* : 4 hrs.

12. *Time taken for discussion* :

13. *Members who participated in the discussion on the motion* of the Bill as passed by the Lok Sabha : 20 (excluding the Mover), (1) Shri B.C. Ghose ; (2) Pandit S.S.N. Tankha ; (3) Shri H.C. Mathur ; (4) Dr. D.H. Variava ; (5) Shri Prasada Rao ; (6) Dr. R.K. Mukerjee ; (7) Shri S.N. Dwivedi ; (8) Shri B.M. Gupta ; (9) Shri Bhupesh Gupta ; (10) Diwan Chaman Lal ; (11) Shri H.P. Saksena ; (12) Shri Kishen Chand ; (13) Shri J.S. Bisht ; (14) Dr. Anup Singh ; (15) Shri H.C. Dasappa ; (16) Shri K.D. Vaidya : (17) Capt. A.P. Singh ; (18) Shri Gopikrishna Vijayavargiya ; (19) Shri J.N. Kaushal ; and (20) Shri Akthar Hussain.

14. *Voting on the discussion on the motion of the Bill as passed by the Lok Sabha* : 143 Ayes and 21 Noes.

15. *Clause by clause consideration of the Bill held on* : 28th September, 1954.

16. *Discussion on the clause* :

Clause 2.—(a) *Amendments moved by* : (1) Shri B.C. Ghose ; (2) Shri P.C. Bhanj Deo ;

(b) *Participants in the discussion* : (1) Shri B.C. Ghose ; (2) Shri P.C. Bhanj Deo.

(c) *Voting on the clause* : 142 Ayes and 24 Noes.

17. *Third Reading* : Speech made by Shri P. Sundaraya.

18. *Final Voting on the passage of the Bill* : 142 Ayes and 22 Noes.

19. *Presidential assent given on* : 22nd February, 1955.

CONSTITUTION (FOURTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 20th December, 1954 by the Prime Minister and the Minister of External Affairs and Defence, Shri Jawaharlal Nehru.

2. *Discussion on the motion for reference to the Joint Committee held on* : 14th and 15th March, 1955. (For two days, 84 days after introduction).

3. *Total number of hours allotted for discussion* : 10 hrs.

4. *Total time taken for discussion* : 9 hrs. 58 mts., split up as follows, 14th : 12 02 p.m. to 5.01 p.m. (4 hrs. 59 mts.) ; 15th : 12.01 p.m. to 5 p.m. (4 hrs. 59 mts.).

5. Joint Committee to submit its report on 31st March, 1955 (16 days after the consideration of the Bill).

6. *Report of the Joint Committee submitted on* : 31st March, 1955.

7. *Members of the Joint Committee* : 45 (i.e.) 30 from the Lok Sabha and 15 from the Rajya Sabha. The Lok Sabha members were : (1) Shri T.T. Krishnamachari ; (2) Shri H.V. Pataskar ; (3) Shri Satya Narayan Sinha; (4) Shri G.L. Bansal; (5) Shri C.C. Shah; (6) Shri A.P. Sinha ; (7) Smt. B. Kongmen ; (8) Shri Digvijaya Narain Singh ; (9) Shri T.N. Singh ; (10) Pandit Munishwar Dutt Upadhyay ; (11) Shri D C. Sharma ; (12) Shri R R. Morarka ; (13) Shri Ahmed Mohiuddin ; (14) Shri Radhey Lal Vyas ; (15) Shri Wasudeo Kirolikar ; (16) Shri Upendra Barman ; (17) Shri T. Sangamma ; (18) Shri Kotha Raghuramaiah ; (19) Shri T. Subramanyam ; (20) Shri R. Venkataraman ; (21) Shri C.P. Mathen ; (22) Shri N.C. Chatterjee; (23) Shri Jaipal Singh ; (24) Shri Uma Charan Patnaik ; (25) Shri S.S. More ; (26) Shri Amjad Ali ; (27) Shri Ashok Mehta ; (28) Smt. Renu Chakravarthy ; (29) Shri K K. Basu ; and (30) Shri Jawaharlal Nehru (Chairman).

8. *Amendment moved* : For the circulation of the Bill for eliciting public opinion by 1st July, 1955 by Shri V.G. Deshpande.

9. *Members who participated in the motion for reference to the Joint Committee* : 21 (excluding the Mover), namely, (1) Shri

N.C. Chatterjee ; (2) Shri H.N. Mukerjee ; (3) Shri Ashok Mehta ; (4) Shri Pataskar ; (5) Shri Frank Anthony ; (6) Dr. Krishnaswamy ; (7) Shri C.C. Shah ; (8) Shri V.G. Deshpande ; (9) Shri N.V. Gadgil ; (10) Shri Tulsidas ; (11) Shri U.M. Trivedi ; (12) Shri R. Venkataraman ; (13) Pandit Thakur Das Bhargava ; (14) Shri M.S. Gurupadaswamy ; (15) Shri Punnose ; (16) Shri B.S. Murthy ; (17) Shri T.T. Krishnamachari ; (18) Shri Barman ; (19) Shri Raghavachari ; (20) Shri P.N. Rajabhoj ; and (21) Shri S.N. Dass.

10. *Voting on the motion for reference to the Joint Committee* : 322 Ayes and 9 Noes.

11. *Discussion on the Report of Joint Committee held on* : 11th and 12th April, 1955.

12 *Time allotted for discussion* : 10 hours for all stages, spilt up as, 6 hours for general discussion, 3 hours for clause by clause consideration, and one hour for third reading.

13. *Total time taken for discussion* : 10 hours and 29 mts., split up as, 11th : 5 hrs. (12.02 p.m. to 5 02 p m) ; 12th : 5 hrs. 29 mts. (12.01 p.m. to 5.30 p.m.).

14. *Members who participated in the discussion on the Joint Committee Report* : 17, namely, (1) Shri A.K. Gopalan. (2) Shri Frank Anthony ; (3) Shri T.K. Chaudhuri ; (4) Shri N.P. Nathwani ; (5) Dr. Krishnaswamy ; (6) Shri S.L. Saksena ; (7) Shri Jaipal Singh ; (8) Shri S.V. Ramswamy ; (9) Shri M.P. Mishra ; (10) Shri V.P. Singh ; (11) Swami Ramanand Thirath ; (12) Shri N C. Chatterjee ; (13) Shri G.D. Somani ; (14) Pandit Thakur Das Bhargava ; (15) Shri R.D. Mishra ; (16) Shri R. Venkataraman ; and (17) Pandit G.B. Pant.

15. *Voting on the Report of the Joint Committee* : 280 Ayes and 16 Noes.

16. *Discussion on the clauses* :

Clause 2.—(Amendment of article 31)—

(a) *Members who moved amendments to the clause* : (1) Shri V.G. Deshpande ; (2) Pandit Thakur Das Bhargava ; (3) Shri T.K. Chaudhury ; (4) Shri N.C. Chatterjee ; (5) Shri A.K. Gopalan ; (6) Shri R.D.

Mishra ; (7) Shri Tulsidas ; (8) Shri U.M. Trivedi ; (9) Shri Dabhi ; (10) Shri S.V. Ramaswamy ; (11) Shri Mulchand Dubey ; (12) Shri N.R. Muniswami ; (13) Shri Lokenath Mishra ; (14) Shri Tek Chand ; (15) Shri K C. Sodhia.

(b) *Members who participated in the discussion on the clause* : (1) Acharya Kripalani ; (2) Shri Tek Chand ; (3) Shri Lokenath Mishra ; (4) Shri U.M. Trivedi ; and (5) Pandit K.C. Sharma.

(c) *Time allotted for the clause* : 1 hour 15 mts.

(d) *Voting on the clause* : 297 Ayes and 8 Noes.

Clause 3.—(Amendment of article 31A)—

(a) *Members who moved amendment to the clause* : (1) Pandit Thakur Das Bhargava ; (2) Shri T.K. Chaudhuri ; (3) Shri Simhasan Singh ; (4) Shri A.K. Gopalan ; (5) Shri U.M. Trivedi ; (6) Shri N.R. Muniswami ; (7) Shri Tulsidas ; (8) Shri Tek Chand (9) Shri S.L. Saksena ; (10) Shri Mulchand Dubey ; (11) Shri Pataskar ; (12) Shri Sadhan Gupta ; (13) Shri S.V. Ramaswamy ; (14) Shri N.C. Chatterjee and (15) Shri Nambiar.

(b) *Members who participated in the discussion on the clause* : (1) Shri Damodara Menon ; (2) Shri Sadhan Gupta ; (3) Shri Tek Chand ; (4) Shri N.C. Chatterjee; (5) Pandit Thakur Das Bhargava; and (6) Shri Simhasan Singh.

(c) *Voting on the above clause* : 301 Ayes and 9 Noes.

Clause 4.—(Substitution of new article for article 305)—

(a) *Members who moved amendment to the clause* : (1) Pandit Thakur Das Bhargava ; and (2) Shri R.D. Mishra:

(b) *Members who participated in the discussion on the clause* : Shri R.D. Mishra.

(c) *Voting on the clause* : 295 Ayes and 8 Noes.

Clause 5.—(Amendment of the Ninth Schedule)—

(a) *Members who moved amendment to the above clause* : (1) Pandit Thakur Das Bhargava ; (2) Shri Pataskar ; (3) Shri Simhasan Singh ; and (4) Shri Nambiar.

(b) *Members who participated in the discussion* : (1) Smt. Renu Chakravarthy ; and (2) Shri Pataskar.

(c) *Voting on the clause* : 300 Ayes and 7 Noes.

17. *Third Reading* : Speeches made by : (1) Shri H.N. Mukerjee ; (2) Shri V.L. Deshpande ; and (3) Shri S.L. Saksena.

18. *Final voting on the motion for the passage of the Bill* : 302 Ayes and 5 Noes.

At the Joint Committee Stage :

1. The Joint Committee held six sittings in all, namely, on : 21st, 24th, 25th, 28th, 29th and 30th March, 1955.

2. *Number of members present at the sittings* : 21st : 26 from the Lok Sabha and 14 from the Rajya Sabha ; 24th : 25 from the Lok Sabha and 13 from the Rajya Sabha ; 25th : 24 from the Lok Sabha and 12 from the Rajya Sabha; 28th : 25 from the Lok Sabha and 12 from the Rajya Sabha ; 29th : 24 from the Lok Sabha and 10 from the Rajya Sabha ; and 30th : 27 from the Lok Sabha and 9 from the Rajya Sabha.

3. *Duration of the sittings* : 21st : 1 hr. 30 mts. (3 p.m. to 4.30 p.m.) ; 24th : 2 hrs. 10 mts. (5.5 p m. to 7.15 p.m.) ; 25th : 1 hr. 20 mts : (9.30 a.m. to 10.50 a.m.) ; 28th : 1 hr. 30 mts. (9.30 a.m. to 11 a.m.) ; 29th : 1 hr. 30 mts. (9.30 a.m. to 11 a.m) ; and 30th : 2 hrs. 55 mts. (9.30 a.m. to 11.25 a.m. and 5 p.m. to 6 p.m.). Total : 10 hrs. 55 mts.

4. *Three minutes of dissent were submitted by* : (1) Shri N.C. Chatterjee (2) Shri Jaipal Singh and (3) Smt. Renu Chakravarthy.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the motion on the Bill for reference to the Joint Committee as passed by the Lok Sabha.

2. *Discussion on the motion for reference of the Bill to the Joint Committee held on* : 17th and 19th March, 1955.

3. *Time allotted for discussion* : 7 hrs.

4. *Time taken for discussion* : 7 hrs. 46 mts., split up as, 17th : 3 hrs. 54 mts.; and 19th : 3 hrs. and 52 mts.

5. *Members of the Joint Committee from the House* : 15, namely, (1) Diwan Chaman Lal ; (2) Shri Narayan Mahtha ; (3) Shri J.S. Bisht ; (4) Kazi Karimuddin ; (5) Smt. Violet Alva ; (6) Shri K. Madhavan Menon ; (7) Shri N.R. Malkani ; (8) Shri M. Govinda Reddy ; (9) Shri S.C. Karyalar ; (10) Shri N.G. Ranga ; (11) Dr. B.R. Ambedkar ; (12) Shri Surendranath Dwivedi ; (13) Shri S. Mahanty ; (14) Shri S.N. Mazumdar ; and (15) Pandit Govind Ballab Pant.

6. *Members who participated in the motion for reference to the Joint Committee* : (1) Shri S. Mahanty ; (2) Shri Gulsher Ahmed ; (3) Shri Bhupesh Gupta ; (4) Shri B.M. Gupte ; (5) Shri S.N. Dwivedi ; (6) Shri Samat Prasad ; (7) Smt. Savitri Nigam ; (8) Maulana M. Farooki ; (9) Syed Mazhar Imam ; (10) Dr. Ambedkar ; (11) Sri Kishen Chand ; (12) Shri Tajamal Husain ; (13) Shri S. Banerjee ; (14) Shri D.D. Italia ; (15) Shri Jaspat Roy Kapoor ; (16) Shri D. Narayan ; and (17) Smt. Sharda Bhargava.

7. *Voting on the motion for reference to the Joint Committee* : 139 Ayes and Nil Noes.

8. *Bill as passed by the Lok Sabha laid on the Table of the House on* : 13th April, 1955.

9. *Discussion on the Bill as passed by the Lok Sabha held on* : 19th and 20th April, 1955.

10. *Time allotted for discussion* : 7 hrs. for all stages.

11. *Total time taken for discussion* : 10 hrs. and 16 mts., split up as 19th : 6 hrs. 6 mts. and 10th : 4 hrs. and 10 mts.

12. *Members who participated in the discussion on the Bill* : 26 (excluding the Mover), (1) Shri S. Banerjee ; (2) Shri K. Madhava Menon ; (3) Shri Lalchand Hirachand Doshi ; (4) Shri T.S. Pattabhiraman ; (5) Shri H.P. Saksena ; (6) Shri J.S. Bisht ; (7) Begam Aizaz Rasul ; (8) Shri S.N. Mahtha ; (9) Prof. A.R. Wadia ; (10) Shri T. Badra ; (11) Shri K.S. Hedge ; (12) Shri Kishen Chand ; (13) Shri Abdul Razak Khan ; (14) Shri Mazhar Khan ; (15) Shri Gopikrishna Vijayavargiya ; (16) Shri H.C. Dasappa ; (17) Shri S. Mahanty ; (18) Shri C.P. Parikh ; (19) Shri H.C. Mathur ;

(20) Shri Akhtar Husain ; (21) Shri Akbar Ali Khan ; (22) Smt. Pushpalata Das ; (23) Dr. D.H. Variava ; (24) Shri Rajendra Pratap Sinha ; (25) Shri Bodh Ram Dube ; and (26) Shri Bhupesh Gupta.

13. *Voting on the motion of the Bill as passed by the Lok Sabha* : 131 Ayes and Nil Noes.

14. *Discussion on the clauses* :

Clause 2.—(a) *Amendments moved by* : (1) Prof. A.R. Wadia ; (2) Shri Jaspat Roy Kapoor ; (3) Shri Lalchand Hirachand Doshi ; (4) Shri Bhupesh Gupta ; and (5) Shri H.C. Dasappa.

(b) *Participants in the discussion on the clause* : (1) Shri Bhupesh Gupta ; (2) Prof. A.R. Wadia ; (3) Shri Lalchand Hirachand Doshi ; (4) Shri H.C. Dasappa ; (5) Shri Jaspat Roy Kapoor ; and (6) Shri H.V. Pataskar.

(c) *Voting on the clause* : 142 Ayes and Nil Noes.

Clause 3.—(a) *Amendments moved by* : (1) Shri Bhupesh Gupta ; (2) Shri Lalchand Hirachand Doshi ; (3) Shri K.D. Vaidya ; (4) Shri T.V. Kamalaswamy ; and (5) Shri Jaspat Roy Kapoor.

(b) *Members who participated in the discussion* : (1) Shri J.V.K. Vallabha Rao ; (2) Shri Jaspat Roy Kapoor ; (3) Shri Lalchand Hirachand Doshi ; (4) Shri T.V. Kamalaswamy ; (5) Dr. R.B. Gour ; (6) Shri Madhava Menon ; (7) Shri K.D. Vaidya ; and (8) Pandit Govind Ballab Pant.

(c) *Voting on the clause* : 139 Ayes and Nil Noes.

Clauses 4 and 5.—Shri S. Mahanty alone spoke on the clause.

Voting on the clauses together : 141 Ayes and Nil Noes.

15. *Third Reading* : Speech made by Shri Bhupesh Gupta alone.

16. *Final voting on the passage of the Bill* : 139 Ayes and Nil Noes.

17. *Presidential assent given on* : 27th April, 1955.

CONSTITUTION (FIFTH) AMENDMENT

1. *Introduced* in the Lok Sabha on 9th December, 1955, by the Minister of Law and Minority Affairs, Shri C.C. Biswas, as the Constitution (Eighth Amendment) Bill.

[Originally the Bill introduced as the Constitution (Fifth Amendment) Bill on 21st November, 1955 was a comprehensive one. But in view of quick consideration and passage of the States Reorganisation Bill, only one item in the Bill was sought to be amended and therefore, the Bill with the objective of amending only one article was introduced on 28th November, 1955 as the Constitution (Seventh Amendment) Bill. For the purpose of expediting the passage of the Bill, further, it was thought that the Bill might straightaway be taken for consideration without being referred to a Select/Joint Committee, but as the consensus of opinion was for reference to a Select Committee, the House discussed the Bill on 28th and 30th November, 1955 and on the later date, the Minister of Law and Minority Affairs moved that the Bill be referred to a Select Committee consisting of 21 members, namely, (1) Dr. Kailash Nath Katju ; (2) Shri Kotha Raghuramaiah ; (3) Shri Debeshwar Sarmah, (4) Shri Nageshwar Prasad Sinha ; (5) Shri Narendra P. Nathwant ; 6) Shri H.V. Pataskar ; (7) Shri S.N. Aggarwal ; (8) Shri S.V. Ramaswamy ; (9) Shri Birakisor Ray ; (10) Shri D.C. Sharma ; (11) Shri Munishwar Dutt Upadayay ; (12) Dr. Susibranjan Chatterjee ; (13) Shri K.T. Achuthan ; (14) Swami Ramanand Tirtha ; (15) Shri Shivram Rango Rane ; (16) Shri Ashok Mehta ; (17) Shri H.N. Mukerjee ; (18) Shri N.C. Chatterjee ; (19) Shri Frank Anthony ; (20) Dr. Lanka Sundaram ; and (21) Shri C.C. Biswas.

In the motion for reference of the Bill to the Select Committee that followed, the following members participated : (1) Pandit Thakur Das Bhargava ; (2) Shri N. Sreekantan Nair ; (3) Dr. Krishnaswamy ; (4) Shri S S. More ; (5) Shri H V. Kamath ; (6) Shri Kasliwal ; (7) Shri C.D. Pande ; (8) Shri U.M. Trivedi ; (9) Shri Jaipal Singh ; (10) Shri Dhulekar ; (11) Pandit K.C. Sharma ; (12) Shri V.G. Deshpande ; (13) Shri C.R. Narasimhan ; and (14) Shri C.C. Biswas.

After the discussion, the motion was put to vote and the House division recorded 246 Ayes and 2 Noes. As the number of Ayes did not satisfy the requirement of Rule 169 of the Rules of Procedure of the Lok Sabha, the Speaker declared that the motion for reference of the Bill to the Select Committee was not carried. An attempt made by members for a recount failed.]

2. Objections were raised when the Bill was sought to be discussed on 9th December on the ground that the Bill was substantially identical with the previous one and as such could not be discussed in the same session as per Rules of the Lok Sabha. The Speaker suggested that both the leave for introduction motion as well as the subsequent motions in respect of the Bill should be discussed on the same day, so that, if he came to the conclusion, after hearing that the objection was not valid, the House might proceed to grant leave, followed by introduction, consideration and further stages. In the discussion that followed the following members participated, namely, (1) Dr. Krishnawamy ; (2) Shri Kamath ; (3) Shri N.C. Chatterjee ; (4) Shri C.K. Nair ; (5) Shri Pataskar ; (6) Shri U.M. Trivedi ; (7) Shri M.S. Gurupadaswamy ; (8) Pandit Thakur Das Bhargava ; (9) Shri Altekar ; (10) Shri Radhelal Vyas ; (11) Shri Dhulekar ; (12) Shri H N. Mukerjee ; (13) Shri Raghavachari ; and (14) Shri A M. Thomas. The Speaker after listening to the various viewpoints said that he would give his ruling on the matter on 12th December.

3. In the meanwhile, on 9th December, 1955, Shri Altekar moved that Rule 321 of the Rules of Procedure and Conduct of Business of the Lok Sabha in its application to the motion that leave be granted to introduce the Bill be suspended. In the discussion that followed on the motion, Shri H.N. Mukerjee, Shri Kamath, Shri N.C. Chatterjee, Sardar Hukam Singh, Shri Altekar and Shri M.A. Ayyangar participated. Shri Altekar's motion was then put before the House. It being adopted, the motion for leave to be granted to introduce the Bill was put to the House. That also being adopted the Speaker said that he did not propose to give that ruling then. Subsequently Shri Biswas introduced the Bill.

4. *Discussion on the motion that the Bill be taken into consideration held on* : 12th December, 1955. (For one day, three days after the introduction of the Bill).

5. *Time allotted for discussion* : 4 hrs. for all stages.

6. *Time taken for discussion* : 2 hrs. 40 mts., namely, 12 p.m. to 2.40 p.m.

7. *Amendments moved* : For referring the Bill to a Select Committee by (1) Shri V.G. Deshpande ; and (2) Jointly by Shri H.V. Kamath and Dr. Lanka Sundaram.

(In view of the urgency for the passage of the Bill, it was agreed that there would be an informal discussion between the Law Minister and the Home Minister on the one hand and the members on the other regarding the Bill. The motions were consequently withdrawn.)

8. *Voting on the consideration motion* : 345 Ayes and 1 Noes.

9. *Discussion of the clause* :

Clause 2.—(a) *Amendments moved by* : (1) Shri Shree Narayan Das ; (2) Shri Biren Dutt ; (3) Shri H V. Kamath ; and (4) Shri V.G. Deshpande.

(b) *Members who participated in the discussion on the clause* : (1) Shri H.V. Kamath ; (2) Shri Biren Dutt; (3) Shri Shree Narayan Das ; (4) Shri N.C. Chatterjee ; (5) Shri C.C. Shah ; (6) Shri Raghavachari ; (7) Shri T.S.A. Chettiar ; (8) Pandit Thakur Das Bhargava ; (9) Dr. Lanka Sundaram ; (10) Dr. Suresh Chand ; (11) Shri S S. More; and (12) Shri Tek Chand.

(c) *Voting on the clause* as well as clause 1, the Enacting Formula and the Title put together : 377 Ayes and Nil Noes.

10. *Third Reading* : No discussion on the motion for the passage of the Bill.

11. *Final voting on the motion for the passage of the Bill* : 377 Ayes and Nil Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 13th December, 1955.

2. *Discussion on the Bill as passed by the Lok Sabha held on* : 15th December. (For one day, two days after the Bill was placed on the Table).

3. *Time allotted for discussion* :

4. *Time taken for discussion* : 3hrs. 8 mts. (12 p.m. 3.08 p.m.).

5. Point of order raised by Shri V.K. Dhage under Rules 120 and 121 if notice of intention to move the Bill for consideration was given and if so two days had lapsed. The point of order was, however, ruled out by the Chairman with reasons given thereof.)

6. *Members who participated in the consideration motion* : 13 (excluding the Mover), namely, (1) Shri S.N. Dwivedi ; (2) Shri H.C. Dasappa ; (3) Shri H.C. Mathur ; (4) Begum Aizaz Rasul ; (5) Shri N.D.M. Prasad Rao ; (6) Prof. N.G. Ranga ; (7) Shri Akbar Ali Khan ; (8) Shri P.S. Rajagopal Naidu ; (9) Shri Kishen Chand ; (10) Shri Gopikrishna Vijayavargiya ; (11) Shri Jaspat Roy Kapoor ; (12) Shri J.S. Bisht ; and (13) Pandit S.S.N. Tankha.

7. *Voting on the motion* : 161 Ayes and Nil Noes.

8. *Discussion on the clause* :

Clause 2.—(a) *Amendment moved by* : Shri H.C. Dasappa but withdrawn in view of the assurances given by the Minister.

(b) *Voting on the clause* : 161 Ayes and Nil Noes.

9. *Third Reading* : No speeches made.

10. *Final Voting on the motion that the Bill be passed* : 162 Ayes and Nil Noes.

11. *Presidential assent given on* : 24th December, 1955.

CONSTITUTION (SIXTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 3rd May, 1956 by the Minister of Revenue and Civil Expenditure, Shri M.C. Shah as the Constitution (Tenth Amendment) Bill.

[At the introduction stage Shri Kamath asked if the recommendation of the President was not necessary before the introduction of the Bill as the Bill fell within the purview of sub-clauses (a) to (f) of clause (1) of article 110. The Speaker ruled that it was not necessary as the Bill did not infringe or invoke any of the items contemplated in article 10].

2. *Discussion on the motion for reference of the Bill to a Joint Committee held on* 9th May, 1956. (For on day, six days after the introduction of the Bill.

3. *Total time allotted for discussion* : Three hours.

4. *Total time taken for discussion* : 3 hrs. 45 mts. (*i.e.*, 12.45 p.m. to 4.30 p.m.)

5. The Joint Committee was originally to submit its report on 18th May, 1956 (9 days after the motion for reference to the Joint Committee). But on 17th May, Shri M.C. Shah asked for extension of time for the presentation of Report as the Rajya Sabha had taken up their motion of reference to the Joint Committee only on the evening of the previous day. The Joint Committee was to submit its report on 23rd May, 1956.

6. *The Report of the Joint Committee submitted on* : 23rd May, 1956.

7. *Members of the Joint Committee* : 45 (*i.e.*) 30 from the Lok Sabha and 15 from the Rajya Sabha. The members of the Lok Sabha were : (1) Pandit Thakur Das Bhargava ; (2) Shri Fulsinhji B. Dabhi ; (3) Smt. Jayashri Raiji ; (4) Shri Mulla Abdullabhai Mulla Taherali ; (5) Shri H.G. Vaishnav ; (6) Shri Radhelal Vyas ; (7) Shri S.C. Semantha ; (8) Shri Bhekha Bhai ; (9) Shri Lakshman Singh Charak; (10) Shri M.K. Shivananjappa ; (11) Shri K.T. Achuthan ; (12) Shri P.T. Thanupillai ; (13) Shri B.P. Jhunjhunwala ; (14) Shri B.R. Bhagat ; (15) Shri C.D. Pande ; (16) Shri Simhasan Singh ; (17) Shri Debendra Nath

Samvah ; (18) Shri Niranjan Jena ; (19) Shri Rayasam Seshagiri Rao ; (20) Shri N. Raseshaiah ; (21) Shri S.R. Rane ; (22) Shri M.S. Gurupadaswamy ; (23) Shri Sivamurthiswamy ; (24) Shri Sadhan Chandra Gupta ; (25) Dr. Ch. V Rama Rao ; (26) Shri U.M. Trivedi ; (27) Shri N.C. Chatterjee ; (28) Shri Bhawani Singh ; (29) C.D. Deshmukh ; and (30) Shri K.S. Raghavachari (Chairman).

8. *Members who participated in the discussion on the motion* : 10 (excluding the Mover), namely, (1) Dr. A. Krishnaswamy ; (2) Shri Bansal ; (3) Seth Achal Singh ; (4) Shri K.K. Basu ; (5) Shri Tek Chand ; (6) Shri C.C. Shah : (7) Ch. Ranbir Singh ; (8) Pandit Thakurdas Bhargava ; (9) Shri U.M. Trivedi ; and (10) Shri N. Rachiah.

9. *Voting on the motion for reference to the Joint Committee* :

10. *Discussion on the motion for reference of the Bill to the Joint Committee held on* : 29th May, 1956.

11. *Time allotted for discussion* : Four hours.

12. *Time taken for discussion* : 5 hrs. 20 mts. (11.50 a.m. to 5.10 p.m.)

13. *Amendment moved* for the circulation of the Bill for eliciting opinion thereon by Shri Vallatharus.

14. *Members who participated in the above motion* : 15. (1) Shri Vallatharus ; (2) Shri N.B. Chowdhuri ; (3) Shri Raghavachari ; (4) Pandit Thakur Das Bhargava ; (5) Shri S.S. More ; (6) Shri Barman ; (7) Shri C.C. Shah ; (8) Shri Mohiuddin ; (9) Smt. Tarkeshwari Sinha ; (10) Shri M.S. Gurupadaswamy ; (11) Shri Dabhi ; (12) Seth Achal Singh ; (13) Smt. Jayashri ; (14) Shri Jhunjhunwala ; and (15) Shri C.D. Deshmukh.

15. *Voting on the Report of the Joint Committee* : 342 Ayes and 6 Noes.

16. *Discussion on the clauses* :

Clause 2.— (Amendment of the Seventh Schedule)—

Pandit Thakur Das Bhargava moved an amendment to the clause and participated in the discussion.

Clause 3.—(Amendment of article 269)—

Pandit Thakur Das Bhargava had tabled two amendments to the clause but later on withdrew the same in view of the observations on clause 2.

Clause 4.—(Amendment of article 286)—

Pandit Thakur Das Bhargava, Shri Sadhan Gupta and Shri Jhunjhunwala moved amendments to the clause and participated in the discussion on the clause.

Voting on the above three clauses put together : 328 Ayes and 2 Noes.

17. *Third Reading* : No speeches made.

18. *Final Voting on the motion for the passage of the Bill* : 333 Ayes and 2 Noes (Shri V.G. Deshpande and Shri Nand Lal Sharma).

At the Joint Committee Stage :

1. *The Committee held three sittings in all*, namely, on 18th, 19th and 21st May, 1956.

2. *Members present on the sittings* : 18th : 16 from the Lok Sabha and 6 from the Rajya Sabha ; 19th : 19 from the Lok Sabha and 11 from the Rajya Sabha ; and 21st : 12 from the Lok Sabha and 4 from the Rajya Saba.

3. *Duration of the sittings* : 18th : 30 mts. (9.30 a.m. to 10 a.m.) ; 19th : 2 hrs. and 30 mts. (9 a.m. to 11.30 a.m.) ; 21st : 10 mts. (10 a.m. to 10 10 a.m.). Total time : 3 hrs. 10 mts.

4. *Notes of observation by* : (1) Shri K.T. Achutan ; (2) Shri N.R. Malkani ; (3) Pandit Thakur Das Bhargava ; and (4) Shri B.P. Jhunjhunwala.

5. *Minutes of dissent* by : (1) Shri Fulsinhji B. Dabhi ; (2) Shri R.P. Sinha ; (3) Shri Sivamurthi Swamy ; and (4) Shri N.C. Chatterjee.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *placed on the Table of the House*, the Bill as was to be referred to the Joint Committee on :

2. *Discussion on the motion for reference of the Bill to the Joint Committee held on* : 16th May, 1956.

3. *Time allotted for discussion* : 2 hrs.

4. *Time taken for discussion* : 2 hrs. 30 mts. (11.30 a.m. to 1 p.m. and 2.30 p.m. to 3.30 p.m.).

5. *Members who participated in the motion* : 15 : (1) Shri R.M. Deshmukh ; (2) Shri B.M. Gupta ; (3) Shri Chandulal P. Parikh ; (4) Shri P.S. Rajagopal Naidu ; (5) Shri S.C. Karayalar ; (6) Shri H.P. Saksena ; (7) Shri P.N. Sapru ; (8) Shri P.D. Himatsingka ; (9) Shri C.L. Varma ; (10) Shri Rama Bahadur Sinha ; (11) Shri V. Prasad Rao ; (12) Shri Jaswant Singh ; (13) Shri R.P. Sinha ; (14) N.R. Malkani ; and (15) Shri M.C. Shah.

6. Observation made by Smt. Seeta Permanand that women were ignored while appointments were made to the Joint Committees.

7. *Members who participated in the discussion on the above motion* : (1) Shri Kishen Chand ; (2) Shri Bhupesh Gupta ; (3) Shri R.C. Gupta ; (4) Shri H.C. Dassappa ; (5) Shri Jaspat Roy Kapoor ; and (6) Shri B.P. Aggarwal.

8. *Voting on the above motion* :

9. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 29th May, 1956.

10. *Discussion on the motion that the Bill as passed by the Lok Sabha held on* : 31st May, 1956.

11. *Total time allotted for discussion* : 2 hours.

12. *Total time taken for discussion* : 2 hrs. 25 mts. (10.45 a.m. to 1.10 p.m.).

13. *Members who participated in the discussion on the above motion* : (1) Shri Bhupesh Gupta ; (2) Shri P.D. Himatsingka ; (3) Shri R.P. Sinha ; (4) Shri P.N. Sapru ; (5) Janab M. Muhamed Sahib ; (6) Shri H.N. Kunzru.

14. *Voting on the above motion* : 174 Ayes and Nil Noes.

15. *Discussion on the clauses* :

An amendment tabled by Shri P.D. Himatsingka was not moved.

16. *Voting on the clauses together* : 171 Ayes and Nil Noes.

17. *Third Reading* : No speeches.

18. *Final Voting on the motion that the Bill be passed* : 172 Ayes and Nil Noes.

19. *Presidential assent given on* : 11th September, 1956.

CONSTITUTION (SEVENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 18th April, 1956 by the Minister of Home Affairs, Shri Govind Ballab Pant, as the Constitution (Ninth Amendment) Bill.

2. *Discussion on the motion that the Bill be referred to a Joint Committee held on* : 26th and 27th April, 1956. (For two days, eight days after the introduction of the Bill in the House).

3. *Time allotted for discussion* : 6 hours.

4. *Time taken for discussion* : 6 hours, split up as, 26th : 3 hrs. 29 mts. (2.01 p.m. to 5.30 p.m.) ; 27th : 2 hrs. 31 mts. (11.31 a.m. to 2.02 p.m.)

5. *Members of the Joint Committee* : 51 : 34 from the Lok Sabha and 17 from the Rajya Sabha. The Lok Sabha members were : (1) Shri V. Srinivasa Malliah ; (2) Shri H.V. Pataskar ; (3) Shri A.M. Thomas ; (4) Shri R. Venkataraman ; (5) Shri S.R. Rane ; (6) Shri B.G. Mehta ; (7) Shri Basanta Kumar Das ; (8) Dr. Ram Subhag Singh ; (9) Shri Algurai Shastri ; (10) Shri Shiv Dev Kanta Borooah ; (11) Shri S. Nijalingappa ; (12) Shri S. K. Patil ; (13) Shri Sriman Narayan ; (14) Shri G.S. Altekar ; (15) Shri G.B. Khedkar ; (16) Shri Radha Charan Sharma ; (17) Shri Gurmukh Singh Musafir ; (18) Shri Ram Pratap Garg ; (19) Shri Bhawanji Khimji ; (20) Shri P. Ramaswamy ; (21) Shri B.N. Datar ; (22) Shri Anandchand ; (23) Shri Frank Anthony ; (24) Shri P.T. Punnose ; (25) Shri K.K. Basu ; (26) Shri J.B. Kripalani ; (27) Shri Ashok Mehta ; (28) Shri Saranadhar Das ; (29) Shri N.C. Chatterjee ; (30) Shri Jaipal Singh ; (31) Dr. Lanka Sundaram ; (32) Shri Tek Chand ; (33) Dr. N.M. Jaisoorya ; and (34) Smt. Tarkeshwari Sinha.

6. Originally the Joint Committee was to submit its report on the 14th May, 1956. However, on 14th May, Pandit G.B.

Pant moved that the time for the presentation of the Report be extended to the first day of the next session.

7. Point of order raised by Shri S.S. More under Rule 85 that an irregularity was perpetrated. Speaker ruled that as the whole Bill was not dependent on the other Bill, Rule 85 was not applicable.

8. *Amendments moved* suggesting certain changes in the motion as also giving certain instructions to the Joint Committee by Shri H.V. Kamath and Shri Vallatharus.

9. *Members who spoke on the motion for reference to the Joint Committee* : 22 (excluding the Mover), namely, (1) Shri H.V. Kamath ; (2) Shri Vallatharus ; (3) Shri S.V. Ramaswamy; (4) Shri Gidwani ; (5) Shri Sadhan Gupta ; (6) Shri Keshavaiengar; (7) Shri C.K. Nair ; (8) Shri N.M. Lingam ; (9) Shri Bogawat ; (10) Shri Raghavachari ; (11) Shri Seshagiri Rao ; (12) Smt. Jayashri ; (13) Smt. Shivrajwati Nehru; (14) Pandit C.N. Malaviya ; (15) Shri Tek Chand ; (16) Shri U.M. Trivedi ; (17) Shri C.C. Shah; (18) Shri S.V.L. Narasimhan ; (19) Shri Pataskar (Minister of Legal Affairs); (20) Shri V.P. Powat ; (21) Pandit Thakur Das Bhargava ; and (22) Shri Tandon.

10. *Report of the Joint Committee submitted on* : 16th July, 1956.

11. *Discussion on the Report of the Joint Committee held on* : 4th September, 1956.

12. *Time allotted for the discussion on the Joint Committee Report* : 5 hours.

13. *Time taken for the discussion on the Joint Committee Report* : 6 hrs. (12.05 p.m. to 6.05 p.m.).

14. Members who participated in the above motion : 12 : (1) Shri K.K. Basu ; (2) Dr. Lanka Sundaram; (3) Shri B.K. Ray ; (4) Shri Mohiuddin ; (5) Shri Anandchand ; (6) Shri N.C. Chatterjee ; (7) Shri Dasaratha Deb ; (8) Dr. Jaisoorya ; (9) Shri N.R. Muniswami ; (10) Shri Frank Anthony ; (11) Shri Radharaman ; and (12) Pandit Thakur Das Bhargava.

15. *Voting on the Joint Committee Report* : 343 Ayes and Nil Noes.

16. *Discussion on the clauses held on* : 5th and 6th September 1956.

17. *Time allotted for the discussion on the clauses* : 14 hrs. 30 mts.

18. *Time taken for the discussion on the clauses* : 14 hrs. 42 mts., split up as follows, 5th : 6 hrs. 05 mts. (12.03 p.m. to 4.30 p.m. and 4.50 p.m. to 6.30 p.m.) ; and 6th : 8 hrs. 35 mts. (11.06 a.m. to 7.41 p.m.).

19. *Details regarding discussion on the clauses* :

A. *Clauses 2 to 16 and 20A and 25 were taken together—*

(a) *Amendments were moved* by the following :

(i) Clause 2.—(Amendment of article 1 and First Schedule)—

(1) Shri H.V. Kamath ; (2) Pandit G.B. Pant ; (3) Shri N.R. Muniswami ; (4) Shri K.K. Basu ; and (5) Shri V.G. Deshpande,

(ii) Cluase 3.—(Amendment of article 80 and Fourth Schedule)—Pandit G.B. Pant only.

(iii) Clause 4.—(Substitution of new articles for arts. 81 and 82)—Shri Amin Chand only.

(iv) Clause 8.—(Amendment of article 168)—

(1) Shri N.R. Muniswamy ; (2) Shri K.K. Basu ; and (3) Pandit G.B. Pant,

(v) Clause 10.—(Amendment of article 171)—Shri K.K. Basu only.

(vi) Clause 11.—(Amendment of article 216)—

(1) Shri Frank Anthony ; and (2) Shri Hem Raj.

(vii) Clause 11A.—(New clause)—Shri Shree Narayan Das alone.

(viii) Clause 12.—(Amendment of article 217)—

(1) Shri K.K. Basu ; (2) Shri N.R. Muniswamy ; (3) Shri U.M. Trivedi ; and (4) Shri Krishnamacharya Joshi.

(ix) Clause 13.—(Substitution of new article for article 220)—

(1) Shri N.R. Muniswamy ; (2) Shri B.K. Ray ; (3) Shri N.C. Chatterjee ; (4) Shri R.D. Mishra ; (5) Shri K.K. Basu ; (6) Pandit Thakur Das Bhargava ; (7) Shri Krishnamacharya Joshi ; (8) Shri H. V. Kamath ; (9) Shri U.M. Trivedi ; and (10) Shri Datar.

(x) Clause 14.—(Amendment of article 222)—

(1) Shri K.K. Basu ; and (2) Shri N.C. Chatterjee.

(xi) Clause 14A.—(New clause)—Shri H.V. Kamath alone.

(xii) Clause 15.—(Substitution of new articles for article 224)—

(1) Shri U.M. Trivedi ; (2) Shri N.R. Muniswamy ; (3) Shri H.V. Kamath ; and (4) Pandit Thakur Das Bhargava.

(xiii) Clause 16.—(Substitution of new articles for articles 230-232)—

(1) Shri Shree Narayan Das ; (2) Shri K.K. Basu ; and (3) Shri Narasimhan.

(xiv) Clause 20A.—(New clause)—

(1) Shri Frank Anthony ; (2) Shri Hem Raj ; and (3) Shri R.N.S. Deo.

(xv) Clause 25.—(Amendment of the Second Schedule)—Shri Datar alone.

(b) *Members who participated in the discussion on the above* :

(i) Clauses 2 to 10 :

(1) Shri K.K. Basu ; (2) Shri N.C. Chatterjee ; (3) Shri H.V. Kamath ; (4) Shri T.S.A. Chettiar ; (5) Shri Damodara Menon ; (6) Shri S.S. More ; (7) Shri V. G. Deshpande ; (8) Shri U.M. Trivedi ; (9) Shri Anandchand ; (10) Dr. Suresh Chandra.

(ii) Clauses 11 to 16 and 20A and 25 :

(1) Shri C.C. Shah ; (2) Shri N.C. Chatterjee ; (3) Pandit Thakur Das Bhargava ; (4) Shri Frank Anthony ; (5) Shri U.M. Trivedi ; (6) Shri A.M. Thomas ; (7) Shri H.V. Kamath ; (8) Shri H.N. Mukerjee ; and (9) Shri Datar.

(c) *Time allotted for the group* : 5 hrs. 30 mts.

(d) *Voting on the clauses in the group* :

(i) clauses 2 to 9, 11 to 16 and 25 : 296 Ayes and Nil Noes.

(ii) clause 10 : 296 Ayes and 26 Noes.

B. *Clauses 17 to 20 were taken together—*

(a) *Amendments were moved by the following* :

(i) clause 17.—(Amendment of Part VIII)—
(1) Shri H.V. Kamath ; and (2) Shri K.K. Basu.

(ii) Clause 18.—(Insertion of new article 258A)—Shri H.V. Kamath alone.

(iii) Clause 19.—(Insertion of new Article 290 A)—Shri G.B. Pant alone.

(b) *Members who participated in the discussion* :

(1) Shri K.K Basu ; (2) Shri N.C. Chatterjee ; (3) Shri H.V. Kamath ; (4) Pandit Thakur Das Bhargava ; (5) Shri Anandchand ; (6) Shri C.K. Nair ; and (7) Shri Biren Dutt.

(c) *Time allotted for the group* : 1 hr. 30 mts.

(d) *Voting on the clause* : 324 Ayes and Nil Noes.

C. *Clauses 2A, 21 and 21A were taken together—*

(a) *Amendments were moved by the following* :

(i) New clause 2A—

(1) Shri Shree Narayan Das ; (2) Shri Frank Anthony ; and (3) Shri S.V. Ramaswamy.

(ii) Clause 21.—Substitution by a new clause—
(1) Shri B.N.S. Deo ; (2) Shri Dasarath Deb ; (3) Pandit Thakur Das Bhargava ; (4) Shri H.V.

Kamath ; (5) Shri Datar : (6) Shri Frank Anthony ; (7) Shri K.K. Basu ; (8) Shri V G. Deshpande ; (9) Smt. Renu Chakravarthy; (10) Shri N.R. Muniswami Pillai ; and (11) Shri H.V. Pataskar.

(iii) New clause 21A—

(1) Shri Frank Anthony ; and (2) Pandit Thakur Das Bhargava.

(b) *Members who spoke on the above clauses* :

(1) Shri Frank Anthony ; (2) Shri R.N.S. Deo ; (3) Shri Mohiuddin ; (4) Pandit Thakur Das Bhargava ; (5) Shri N.C. Chatterjee ; (6) Shri K.K. Basu ; and (7) Shri V.G. Deshpande.

(c) *Time allotted for the group* : 3 hours.

(d) *Voting on the clause* : 324 Ayes and Nil Noes.

D. *Clauses 22 and 22A—*

(a) *Members who moved amendments* :

(i) Clause 22.—(Substitution of New article 371)

(1) Shri K.K. Basu ; (2) Pandit Thakur Das Bhargava ; (3) Shri Hem Raj : (4) Shri Pataskar : (5) Shri Bhakt Darshan ; (6) Shri V.G. Deshpande ; and (7) Shri N.C. Chatterjee.

(ii) New clause 22A—Pandit Thakur Das Bhargava alone.

(b) *Members who participated in the discussion on the clause* :

(1) Shri K.K. Basu ; (2) Shri N.C. Chatterjee ; (3) Shri Bansal ; (4) Shri Pataskar ; (5) Dr. Jaisoorya ; (6) Shri Amarnath Vidyalankar ; (7) Sardar Hukam Singh ; (8) Pandit Thakur Das Bhargava ; (9) Ch. Ranbir Singh : and (10) Shri U.M. Trivedi.

(c) *Time allotted for this group* : 4 hrs. 30 mts.
as well as for the following group

(d) *Voting on the above group* : 324 Ayes and Nil Noes.

E *Clauses 23, 24, 26 to 29, the Schedule and Clause 1—*

(a) *Members who moved amendments*:

(i) Clause 23.—Insertion of new article 372A—
(1) Pandit G.B. Pant ; and (2) Shri H.V. Kamath.

(ii) Clause 24.—(Insertion of new article 378A)—
(1) Shri C.R. Narasimhan; and (2) Pandit G.B. Pant.

(iii) The Schedule and the New Second Schedule—
(1) Shri Anandchand ; (2) Pandit G.B. Pant ; (3) Shri Datar ; (4) Pandit Thakur Das Bhargava ; and (5) Shri Bahadur Singh.

(iv) Clause 1.—(Short Title and Commencement)—
(1) Shri B.N. Datar ; (2) Shri R.D. Mishra ; (3) Pandit G.B. Pant ; and (4) Shri C.R. Narasimhan.

(b) *Members who participated in the discussion on the above* :

(1) Shri Aminchand : and (2) Shri C.R. Narasimhan.

(c) *Voting on the clauses* :

(i) Clauses 23, 26, 29 and the Schedules : 324 Ayes and Nil Noes.

(ii) Clause 24.—311 Ayes and Nil Noes.

20. *Third Reading* : Shri H.V. Kamath, Shri Pataskar, Shri Frank Anthony and Shri K.K. Basu made speeches.

21. *Final voting on the motion that the Bill be passed* : 312 Ayes and Nil Noes.

At the Joint Committee stage :

1. The Joint Committee held four sittings, namely, 10th, 11th, 12th and 14th July, 1956.

2. *Members present during the sittings* : 10th : 42 (28 from the Lok Sabha and 14 from the Rajya Sabha) ; 11th : 42 (29 from the Lok Sabha and 13 from the Rajya Sabha) ; 12th ; 38 (26 from the Lok Sabha and 12 from the Rajya Sabha) ; and 14th : 35 (25 from the Lok Sabha and 10 from the Rajya Sabha).

3. *Duration of the sittings* : 10th : 3 hrs. 50 mts. (3 p.m. to 6.50 p.m.) ; 11th : 4 hrs. (3.30 p.m. to 7.30 p.m.) ; 12th ; 2 hrs. 30 mts (3 p.m. to 5.30 p.m.) ; and 14th : 15 mts (3.30 p.m. to 3.45 p.m.). Total time : 10 hrs. 35 mts.

4. Dissenting minutes to the Report by : (1) Shri N.C. Chatterjee ; (2) Shri K.K. Basu and Shri J.V.K. Vallabha Rao : and (3) Dr. Lanka Sundaram.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the motion for reference to a Joint Committee as passed by the Lok Sabha on 28th April, 56.

2. *Discussion on the motion for reference of the Bill to a Joint Committee held on* : 2nd May, 1956. (For one day, four days after it was laid on the Table).

3. *Time allotted for discussion* :

4. *Time taken for discussion* :

5. *Members of the House in the Joint Committee :* 17 : (1) Shri Chandulal P. Parikh ; (2) Shri Biswanath Das ; (3) Shri K. Madhavan Menon ; (4) Capt. A.P. Singh ; (5) Dr. Anup Singh ; (6) Shri A. Satyanarayana Raju ; (7) Shri M.D. Thampalliwar ; (8) Shri K.S. Hedge ; (9) Shri Tarkeshwar Pande ; (10) Shri T.R. Deogirikar ; (11) Shri J.V.K. Vallabha Rao ; (12) Dr. P. Subbarayan ; (13) Shri V.K. Dhage ; (14) Shri Kishen Chand ; (15) Shri Surendra Mahanty ; (16) Shri Kakasahib Kalelkar ; and (17) Pandit G.B. Pant.

6. *Members who participated in the discussion on the above* : 9 (excluding the Mover), namely, (1) Shri P.N. Sapru ; (2) Dr. R.B. Gour . (3) Shri R.C. Gupta ; (4) Pandit S.S.N. Thanka ; (5) Shri H.N. Kunzru ; (6) Shri P.S. Rajagopala Naidu ; (7) Shri J.S. Bisht ; (8) Shri Jaspat Roy Kapoor ; and (9) Shri Rameshwar Agnibhoj.

7. The Secretary, Rajys Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 7th September, 1956.

8. Discussion on the above motion held on 10th and 11th September, 1956 (For two days, three days after the Bill was laid on the Table of the House).

9. *Time allotted for discussion* : 7 hrs. 30 mts.

10. *Time taken for discussion* : 11 hrs. 36 mts., split up as follows,

11. *Members who participated in the above discussion* : 29 (excluding the Mover), namely: (1) Shri S.N. Mazumdar; (2) Shri Jaspat Roy Kapoor ; (3) Shri M. Satyanarayana ; (4) Shri V.S. Sarvate ; (5) Shri S. Mahanty ; (6) Kazi Karimuddin ; (7) Shri Vijay Singh ; (8) Smt. Lilavati Munshi ; (9) Shri M. Govindan Reddy ; (10) Shri J.S. Bisht ; (11) Prof. A.R. Wadia ; (12) Shri Jaswant Singh ; (13) Shri B.K.P. Sinha ; (14) Prof. N.G. Ranga ; (15) Shri V. Prasad ; (16) Shri Jaganatha Rao Desai ; (17) Shri Ramdhari Singh Dinkar ; (18) Shri P.N. Sapru ; (19) Shri H.N. Kunzru ; (20) Shri P.D. Himatsingka ; (21) Shri R.V. Agnibhoj ; (22) .....; (23) Janab M. Muhammad Ismail Sahib ; (24) Smt. Yashoda Reddy ; (25) Shri T. Badra ; (26) Syed Mazhar Imam ; (27) Dr. R.P. Dube ; (28) Shri Ram Sahay ; and (29) Shri Chiranjilal Varma.

12. *Voting on the above motion* : 164 Ayes and 3 Noes.

13. *Discussion on the clauses* :

(i) Clause 2.—Amendment moved by and speech made by Dr. R.B. Gour.

(ii) Clause 2A.—Amendments moved by and speeches made by Shri S. Mahanty and Shri Jaspat Roy Kapoor.

(iii) Clause 3.—Amendments barred. No speeches made.

(iv) Clauses 6 and 7.—Speeches made by Shri Mahanty and Shri Kishen Chand.

Voting on clause 6 : 155 Ayes and 8 Noes.

(v) Clause 8.—Shri Kishen Chand moved and spoke on his amendment.

(vi) Clause 11.—Shri Jaspat Roy Kapoor moved and spoke on his amendment.

(vii) Clause 12.—Amendments were moved by Dr. R.B. Gour and Shri Kishen Chand. The latter spoke on his amendment.

(viii) Clause 13.—Dr. R.B. Gour, Shri Jaspat Roy Kapoor, Shri Kishen Chand and Janab M. Muhammad Ismail Sahib moved their amendments. No speeches made.

(ix) Clause 17.—Shri V. Prasad Rao and Janab M. Muhammad Ismail Sahib moved amendments and spoke on them.

(x) Clause 18.—Shri Mahanty's amendment was ruled out of order but he spoke on it.

Voting on the clause : 154 Ayes and 9 Noes.

(xi) Clause 20A.—Shri Jaspat Roy Kapoor spoke on the clause.

(xii) Clause 21.—Kazi Karimuddin, Dr. R B. Gour, Janab M. Ismail Sahib and S. Mahanty moved amendments and all of them and Shri Jaspat Roy Kapoor spoke on the clause.

(xiii) Clause 22.—Shri V. Prasad Rao, Shri Kishen Chand, Shri Raghavendra Rao, Kazi Karimuddin and Shri J.S. Bisht moved amendments to the clause and all the above and Shri T. Bodra spoke on the clause.

(xiv) Clause 24.—Shri Prasad Rao moved and spoke on his amendment.

Voting on the clause : 157 Ayes and 7 Noes.

As it was decided that the clauses for which there was no opposition should be put to vote together the voting on clauses 2 to 5, 7 to 17, 19 to 23, 25 to 29 was : 159 Ayes and 2 Noes.

14. *Third Reading* : Shri S. Mahanty, Dr. R.B. Gour, Shri Kishen Chand, Shri Biswanath Das, Shri K. Madhava Menon and Shri Anup Singh made speeches.

15. *Voting on the motion that the Bill be passed* : 157 Ayes and Nil Noes.

16. *Presidential assent given on* : 14th October, 1956.

CONSTITUTION (EIGHTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 16th November, 1959 by the Minister of Home Affairs, Pandit Govind Ballab Pant.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 30th November and 1st December, 1959. (For two days, fourteen days after the Introduction of the Bill).

3. *Total time allotted for discussion* : 4 hours.

4. *Total time taken for discussion* : 8 hours 20 mts., spilt up as follows, 30th : 4 hrs. 53 mts. (12.49 p.m. to 5.42 p.m.), 1st : 3 hrs. 27 mts. (12.28 p.m. to 3.55 p.m.).

5. *Thirteen amendments* moved for circulation of the Bill for eliciting public opinion. The Speaker under the rules empowering him to select any one of them, chose Shri B.K. Gaikwad's amendment on the ground that it did not appear to be dilatory, since it sought to put it off only till the 20th December, 1959).

6. *Members who participated in the discussion on the motion* : 16 (excluding the Mover), namely, (1) Shri H.N. Mukerjee ; (2) Shri D.A. Katti ; (3) Shri Barman ; (4) Shri Sonavane ; (5) Shri Surendranath Dwivedi ; (6) Smt. Sahodara Bai Rai ; (7) Shri Basumatari ; (8) Shri C.R. Pattabhiraman ; (9) Shri L. Achaw Singh ; (10) Shri Mahavir Tyagi ; (11) Pandit Thakur Das Bhargava; (12) Dr. Krishnaswamy ; (13) Shri Khadekar ; (14) Shri M.R. Krishna ; (15) Shri Ayyakannu ; and (16) Shri Frank Anthony.

7. Voting on the motion for consideration of the Bill could not be held on 20th December, 1959 as the automatic machine had failed and as tellers were not ready for facilitating members to record their votes in the lobby. Therefere, voting was postponed to the next day.

On 1st December, there was discussion with regard to the propriety of the postponement of voting by the Speaker.

Privilege motion to the effect that the voting should have been recorded the previous day itself and hence an irregularity moved by Shri B.C. Kamble.

Participants in the above discussion were : (1) Shri B.C. Kamble ; (2) Shri Surendranath Dwivedi ; (3) Shri Feroze Gandhi ; (4) Shri H.N. Mukerjee ; (5) Shri Frank Anthony ; (6) Shri Khadekar ; (7) Shri Braj Raj Singh ; (8) Shri Diva Raj ; (9) Shri Mahanty ; (10) Shri A. K. Sen ; and (11) Acharya Kripalani.

Ruled out by the Speaker after a suitable reply.

8. *Voting on the consideration motion held on 1st December* : 291 Ayes and 9 Noes. (Some members staged a walk out).

9. *Discussions on the clauses* :

Clause 2. – (Amendment of article 333)—

(*a*) *Members who moved amendments to the clause* : (1) Shri Narayanan Kutty Menon ; and (2) Shri Kodiyan.

(*b*) *Members who participated in the discussion on the clause* : (1) Shri Narayanan Kutty Menon ; (2) Shri Kodiyan ; (3) Shri Frank Anthony ; (4) Shri B.C. Kamble ; (5) Shri Achar ; (6) Shri Surendranath Dwivedi ; (7) Pandit Thakur Das Bhargava ; and (8) Shri Barrow.

(*c*) *Time allotted for clauses 2 and 3 and Third Reading* : One hour.

(*d*) *Voting on clause 2* : 248 Ayes and 24 Noes. (As it was below the requisite majority, the motion was negatived).

Clause 3.—(Amendment of article 334)—

(*a*) *Members who moved amendments to the above clause* : (1) Shri Kodiyan ; (2) Shri M. Siddiah ; (3) Shri Samantsinhar ; and (4) Shri Surendranath Dwivedi.

(Since the amendments of Shri M. Siddiah and Shri Samantsinhar were the same the Speaker allowed only the latter.)

(*b*) *Members who participated in the discussion on the clause* : (1) Shri Kodiyan ; (2) Shri Thimmaiah ; (3) Shri Balkrishna Wasnik ; and (4) Shri Dasappa.

(*c*) *Voting on the clause* : 280 Ayes and 5 Noes.

10. *Third Reading* : No speeches made.

11. *Final voting on the motion for the passage of the Bill* : 285 Ayes and 4 Noes. (Result subsequently corrected to : 284 Ayes and 4 Noes).

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 3rd December, 1959.

2. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 7th December. (For one day, four days after the Bill was laid on the Table of the House).

3. *Time allotted for discussion* : 3 hrs. 30 mts. but if they sat through the lunch hour then 5 hours.

4. *Time taken for discussion* : 4 hrs. 15 mts. (12 p.m. to 4.15 p m.).

5. *Members who participated in the motion* : 16 (excluding the Mover), namely, (1) Shri N.R. Malkani ; (2) Prof. A.R. Wadia ; (3) Shri P.N. Rajabhoj ; (4) Shri J.S. Bisht ; (5) Shri T. Bodra ; (6) Shri P.N. Sapru ; (7) Shri H N. Kunzru ; (8) Shri Jaswant Singh ; (9) Shri N.M. Lingam ; (10) Shri Niranjan Singh ; (11) Shri Dayaldas Kurre ; (12) Dr. Dharm Prakash ; (13) Smt. Chandravati Lakhanpal ; (14) Shri Kailash Bihari Das ; (15) Dr. R.B. Gour ; (16) Smt. Dr. Seetha Parmanand ; and (17) Shri Jaspat Roy Kapoor.

6. *Voting on the above motion* : 160 Ayes and Nil Noes with two abstentions.

7. *Discussion on the clause* :

Clause 2.—No amendments moved.

Voting on the clause : 161 Ayes and Nil Noes.

8. It is to be noted that the Bill as was considered by the Rajya Sabha contained only one item, namely the amendment of article 334, the amendment to article 333 having been negatived by the Lok Sabha.

9. *Third Reading* : No speeches made.

10. *Voting on the motion that the Bill be passed* : 169 Ayes and Nil Noes.

11. *Presidential assent given on* : 5th January, 1960.

CONSTITUTION (NINTH AMENDMENT)

1. *Introduction* in the Lok Sabha on 16th December, 1960 by the Prime Minister and Minister of External Affairs, Shri Jawaharlal Nehru.

2. *Motion opposed at the introduction stage by* : Shri Tridib Kumar Chaudhuri, Shri H.N. Kunzru and Shri Surendra Mahanti, who also spoke on their objections.

3. *Voting on the motion for leave to introduce the Bill* : 170 Ayes and 46 Noes. (Decided on a simple majority).

4. *Discussion on the motion that the Bill be taken into consideration held on* : 19th and 20th December, 1960. (For two days, three days after the introduction of the Bill). The Bill was discussed along with the Acquired Territories (Merger) Bill.

5. *Time allotted for discussion* : 7 hours for general discussion on the Bill. Extended by one more hour on the following day.

6. *Time taken for discussion* : 9 hrs. 43 mts., split up as, 19th : 4 hrs. 50 mts. (12.13 p.m. to 5.03 p.m.) ; 20th : 4 hrs. 53 mts. (12.27 p.m. to 5.20 p.m.).

7. *Four amendments moved for the circulation of the Bill for eliciting opinion* : Speaker allowed only Shri Vajpayee's amendment as that the Bill be circulated for eliciting opinion thereon by the first day of the next session.

8. *Members who participated in the discussion* : 25 (excluding the Mover), namely, (1) Shri H.N. Mukerjee ; (2) Shri Tridib Kumar Chaudhuri ; (3) Shri Atulaya Ghose ; (4) Shri Barman ; (5) Shri Bimal Ghosh ; (6) Shri M. Khuda Baksh ; (7) Shri N.G. Ranga ; (8) Smt. Renuka Ray ; (9) Shri A.C. Guha ; (10) Shri Subimal Ghosh ; (11) Shri Jaipal Singh ; (12) Shri N.R. Ghosh ; (13) Shri Vajpayee ; (14) Shri Anil K. Chanda (Deputy Minister of Works, Housing and Supply) ; (15) Acharya Kripalani ; (16) Dr. Krishnaswami ; (17) Smt. Manjula Devi ; (18) Shri Mahanty ; (19) Smt. Ila Pal Choudhuri ; (20) Shri P.C. Borooah ; (21) Shri Ajit Singh Sarhadi ; (22) Shri C.K. Bhattacharya ; (23) Sardar Iqbal Singh ; (24) Shri Brajraj Singh ; and (25) Pandit Brij Narain 'Brajesh'.

9. *Voting on the motion for circulation of the Bill for eliciting opinion* : 44 Ayes and 328 Noes.

Voting on the motion that the Bill be taken into consideration : 333 Ayes and 53 Noes.

10. *Discussion on the clauses*:

Clause 2.—Definition—

Shri Prabhat Kar moved an amendment to the clause. Two hours were allotted for the discussion on all the clauses.

Voting on the above clause : 333 Ayes and 52 Noes.

Clause 3.—Amendment of the First Schedule—

Shri B. Das Gupta movedan amendment and spoke on the clause,

Voting on the above clause : 332 Ayes and 47 Noes.

Clause 4.—First Schedule—

(a) *Amendments moved by* : Shri Aurobindo Ghoshal and Shri Bimal Ghosh.

(b) Shri Aurobindo Ghoshal alone spoke on the clause.

(c) *Voting on the clause* : 330 Ayes and 46 Noes.

Clause 5.—Second Schedule—

No amendments or discussion on the clause.

Voting on the clause : 329 Ayes and 46 Noes.

11. *Third Reading* : No discussion on the motion for the passage of the Bill.

Time allotted for this stage : one hour.

12. *Final voting on the motion that the Bill be passed* : 328 Ayes and 47 Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House, the Bill* as passed by the Lok Sabha on 20th December, 1960.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 22nd and 23rd December, 1960. (For two days after the Bill was laid on the Table).

3. *Total time allotted for discussion* : Five hours.

4. *Total time taken for discussion* : 7 hrs. 05 mts., split up as, 22nd : 2 hrs. 20 mts. (3.02 p.m. to 5.33 p.m.) and 23rd : 4 hrs. 45 mts. (11.15 a.m. to 5.22 p.m).

5. *Members who participated in the discussion*: 16 (excluding the Mover), namely, (1) Shri Bhupesh Gupta; (2) Dr. Nihar Ranjan Ray; (3) Shri Ansaruddin Ahmed; (4) Shri Nafisul Hasara; (5) Dr. H.N. Kunzru; (6) Shri N. Venkateshwara Rao; (7) Shri G.S. Pathak; (8) Dr. A.N. Bose; (9) Shri S.C. Deb; (10) Shri Surendra Mohan Ghose; (11) Shri Sudhir Ghosh; (12) Shri M.M. Sur; (13) Shri P.N. Sapru; (14) Kumari Shanta Vasisht; (15) Shri Gopikrishna Vijayavargiya; and (26) Shri J.S. Bisht.

6. *Voting on the consideration motion*: 172 Ayes and 16 Noes.

7. *Discussion on the clauses*:

No amendments or discussions on the clauses.

Voting on clause 2: 172 Ayes and 15 Noes.

Voting on clause 3: 173 Ayes and 16 Noes.

Voting on First Schedule: 172 Ayes and 16 Noes.

Voting on Second Schedule: 172 Ayes and 16 Noes.

8. *Third Reading*: Speech made by Shri Bhupesh Gupta.

9. *Final voting on the motion that the Bill be passed*: 172 Ayes and 15 Noes.

10. *Presidential assent given on*: 29th December, 1960.

CONSTITUTION (TENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 11th August, 1961 by Smt. Lakshmi Menon, Deputy Minister of External Affairs on behalf of Shri Jawaharlal Nehru.

2. *Discussion on the motion that the Bill be taken into consideration held on*: 14th Augut, 1961. (For one day, three days after the introduction of the Bill).

3. *Time allotted for discussion*: 2 hrs. 30 mts. for all stages of the Bill.

4. *Time taken for discussion*: 3 hrs. 7 mts. (12.18 p.m. to 3.25 p.m.).

5. *Members who participated in the consideration motion*: 14 (excluding the Mover), namely, (1) Shri Tyagi; (2) Shri S.A.

Dange ; (3) Shri Tridib Kumar Chaudhuri ; (4) Shri Naushir Barucha ; (5) Shri Narasimhan ; (6) Shri Mahanty ; (7) Dr. M.S. Aney ; (1) Shri Achar ; (9) Shri P.K. Deo ; (10) Shri A.C. Guha ; (11) Shri U.L. Patil ; (12) Shri Yadav Narayan Jadhav ; (13) Shri Brajraj Singh ; and (14) Shri Kamalnayan Bajaj.

6. Point of order raised by Shri Naldurgkar that the special majority as required under article 368 was not required as it was only the addition of a territory. Speaker ruled that that was the need as it was a Constitution Amendment Bill.

7. *Voting on the consideration motion* : 337 Ayes and Nil Noes.

8. *Discussion on the clauses* :

No amendments or discussion took place on clauses 2 and 3.

Voting on clauses 2 and 3 together : 329 Ayes and Nil Noes.

9. *Third Reading* : No speeches made.

10. *Final voting on the motion for the passage of the Bill :* 343 Ayes and Nil Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House,* the Bill as passed by the Lok Sabha on 14th August, 1961.

2. *Discussion on the Bill as passed by the Lok Sabha held on* : 16th August, 1961. (For one day, two days after the Bill was laid on the Table).

3. *Time allotted for discussion* : Two hours.

4. *Time taken for discussion* : 2 hrs. 45 mts. (2.30 p.m. to 5.15 p.m).

5. *Members who participated in the discussion on the above motion* : 8 (excluding the Mover), namely, (1) Shri Bhupesh Gupta ; (2) Shri P.N. Sapru ; (3) Shri Satya Saran ; (4) Pandit H.N. Kunzru ; (5) Shri M.S. Gurupadaswamy ; (6) Shri M. Govinda Reddy ; (7) Shri A.D. Mani ; and (8) Shri Bhagwat Narain Bhargava.

6. *Voting on the above motion* : 155 Ayes and Nil Noes.

7. *Discussion on the clauses* :

No amendments or discussions on the various clauses.

Voting on all the clauses put together : 156 Ayes and Nil Noes.

8. *Third Reading* : Speech made by Shri Bhupesh Gupta only.

9. *Voting on the motion that the Bill be passed* : 162 Ayes and Nil Noes.

10. *Presidential assent given on* : 16th August, 1961.

CONSTITUTION (ELEVENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 30th November, 1961, by the Minister of Law, Shri A.K. Sen.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 5th December, 1961. (For one day, five days after the introduction of the Bill in the Lok Sabha).

3. *Time allotted for discussion* : 2 hrs. but was allowed to continue for 2 hrs. 30 mts.

4. *Time taken for discussion* : 2 hrs. 55 mts. (1.29 p.m. to 4.24 p.m.).

5. *Members who participated in the above motion* : 13 (excluding the Mover), namely, (1) Shri Balraj Madhok ; (2) Shri Hemraj ; (3) Shri Amjad Ali ; (4) Shri Suparkar. (5) Shri Easwara Iyer ; (6) Shri Narasimhan ; (7) Shri Tyagi ; (8) Shri N.G. Ranga ; (9) Shri Tangamani ; (10) Shri S.N. Ramaul ; (11) Pandit Thakur Das Bhargava ; (12) Shri Brajraj Singh ; and (13) Sardar A.S. Saigal.

6. *Voting on the above motion* : 266 Ayes and 35 Noes.

7. *Discussion on the clauses* :

Clause 2.—(a) *Amendment moved by* : Shri Aurobindo Ghoshal. Nobody spoke on the clause.

Time given for all stages of the Bill : 2 hrs. 30 mts.

Voting on the above clause : 268 Ayes and 35 Noes.

Clause 3.—No amendments or discussion on the clause.

Voting on the clause : 268 Ayes and 37 Noes.

8. *Third Reading* : No speeches made.

9. *Final voting on the motion that the Bill be passed*: 269 Ayes and 30 Noes.

10. Point of order raised by Shri Thangamani but the Speaker ruled it out as having no substance.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 6th December, 1961.

2. *Discussion on the motion that the Bill be taken into consideration held on*: 12th December, 1961.

3. *Total time allotted for discussion* : Four hours.

4. *Total time taken for discussion* : 4 hrs. 19 mts. (11.30 a.m. to 1 p.m. and 2.30 p.m. to 5.19 p.m.).

5. *Members who participated in the above motion* : (1) Shri Bhupesh Gupta ; (2) Shri Jaspat Roy Kapoor ; (3) Shri R.P. Sinha ; (4) Shri K. Santhanam ; (5) Pandit H.N. Kunzru ; (6) Shri Diwan Chaman Lal ; (7) Shri Santosh Kumar Basu ; and (8) Shri A.D. Mani.

6. *Voting on the above motion* : 145 Ayes and 2 Noes.

7. *Discussion on the clauses* :

Clause 2.—Shri Bhupesh Gupta moved an amendment and spoke on the clause.

Voting on the above clause : 148 Ayes and 9 Noes.

Clause 3.—Shri R.P. Sinha moved an amendment to the clause. Shri R.P. Sinha and Pandit H.N. Hunzru spoke on the clause.

Voting on the above clause : 144 Ayes and 10 Noes.

8. *Third Reading* : Speeches made by : (1) Shri Bhupesh Gupta ; (2) Shri R.P. Sinha ; and (3) Shri H.N. Kunzru.

9. *Final voting on the motion that the Bill be passed*: 143 Ayes and 10 Noes.

10. *Presidential assent given on*: 19th December, 1961.

CONSTITUTION (TWELFTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 12th March, 1962 by the Prime Minister and Minister of External Affairs, Shri Jawaharlal Nehru.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 14 March, 1962. (For one day, two days after the introduction of the Bill in the House).

3. *Total time allotted for discussion* : One hour.

4. *Total time taken for discussion* : 1 hr. 36 mts. (12.20 p.m. to 1.38 p.m.).

5. *Members who participated in the above motion* : (1) Shri H.N. Mukerjee ; (2) Shri Nath Pai ; (3) Shri Frank Anthony ; and (4) Shri Joachim Alva.

6. *Voting on the above motion* : 312 Ayes and Nil Noes.

7. *Discussion on the clauses* :

Clauses 2 and 3.—No amendments or discussions held.

Voting on the two clauses together : 321 Ayes and Nil Noes.

8. *Third Reading* : Shri Sadhan Gupta alone spoke.

9. *Final voting on the motion that the Bill be passed* : 323 Ayes and Nil Noes.

10. Shri Sadhan Gupta expressed regrets at the use of the word "acquisition" in the Statement of Objects and Reasons of the Bill on the ground that the territory belonged to India. Shri Jawaharlal Nehru replied that the word was used to fit in with the language used in article 1(3)(c) of the Constitution.

11. Due to limited time allotted to the Bill, the Speaker allowed only the leaders of the various parties to speak on the motion.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 15th March, 1962.

2. *Discussion on the Bill as passed by the Lok Sabha held on* : 20th March, 1962 (For one day, five days after it was laid on the Table of the House).

3. *Time allotted for discussion* : One hour.

4. *Time taken for discussion* : 1 hr. 19 mts. (11.45 a.m. to 1.05 p.m.).

5. *Members who participated in the above motion* : (1) Shri K.K. Shah ; (2) Shri Bhupesh Gupta ; and (3) Shri M.S. Gurupadaswamy.

6. *Voting on the above motion* : 147 Ayes and Nil Noes.

7. *Discussion on the clauses* :

Clause 2.—Shri Bhupesh Gupta moved an amendment to it. Shri Bhupesh Gupta and Shri K. Santhanam spoke on the clause.

Voting on clauses 2 and 3 put together : 150 Ayes and Nil Noes.

8. *Third Reading* : No speeches made.

9. *Voting on the motion that the Bill be passed* : 150 Ayes and Nil Noes.

10. *Presidential assent given on* : 27th March, 1962.

CONSTITUTION (THIRTEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 21st August, 1962 by the Prime Minister and Minister of External Affairs and Minister of Atomic Energy, Shri Jawaharlal Nehru.

2. Point of order raised by Shri H.V. Kamath under rule 66 of Rules of Procedure and Conduct of Business whether the amendment Bill could be introduced as it was wholly dependent upon the State of Nagaland Bill that had not been introduced. The Speaker ruled that that was not necessary at the introduction stage as the two Bills were mutually dependent on each other and that at the consideration stage if two Bills were dependent on each other, then that objection could be taken.

3. *Motion for taking the Bill into consideration* moved on 28th August 1962. (Seven days after the Bill was introduced in the House).

4. Prior to the above motion being moved, the suspension to the proviso to Rule 66 was moved. In the discussion that followed on that, Smt. Renu Chakravarthy, Shri U.M. Trivedi, Shri H.V. Kamath, Shri A.K. Sen and Shri Frank Anthony participated. The Speaker allowed the motion to be moved which was subsequently adopted. The amendment and the State of Nagaland Bill were taken up together for consideration.

5. *Amendment moved* by Shri Bade that the Bill be referred to a Select Committee consisting of Dr. M.S. Aney, Shri Brij Raj Singh, Shri Yudhvir Singh Chaudhury ; Shri Homi F. Daji, Shri Kashi Ram Gupta, Shri Hem Barua, Shri Hukam Chand Kachwai, Shri H.V. Kamath, Shri Gauri Shankar Kakkar, Shri Lahiri Singh, Shri Prakash Vir Sastri, Dr. B.N. Singh, Shri U.M. Trivedi, Shri Yashpal Singh and Shri Bade, with instruction to report by the first day of the next session.

6. *Time allotted for the consideration of the Bill* : 4 hours. (Shri Kamath moved, under rule 292 of the Rules of the House, for extension of time for the consideration of the Bill from 4 to 6 hours. The Speaker assured that the time would be extended if it was found insufficient).

7. *Total time taken for the discussion of the Bill*: 5 hrs. 22 mts. (12·38 p m. to 6 p.m.).

8. *Members who participated in the discussion on the above motion* : 15 (excluding the Mover), namely, (1) Shri P.K. Deo ; (2) Smt. Renu Chakravarthy ; (3) Shri S.C. Jamir (Parliamentary Secretary to the Minister of External Affairs) ; (4) Shri P.C. Borooah ; (5) Shri U.M. Trivedi ; (6) Shri Hem Barua ; (7) Shri S.T. Singh ; (8) Shri Gauri Shankar Kakkar ; (9) Dr. Colaco ; (10) Dr. M.S. Aney ; (11) Shri A.C. Guha ; (12) Shri Basumatari ; (13) Shri Ram Sevek Yadav ; (14) Shri Tulsi Das Yadav ; and (15) Shri Bade.

9. *Voting on the above motion* : 335 Ayes and 5 Noes.

10. *Discussion on the clause* :

Clause 2.—(Amendment of Part XXI)—

(a) *Amendments moved by* : (1) Smt. Renu Chakravarthy ; (2) Shri H.V. Kamath ; and (3) Shri Hem Barua.

(b) *Members who participated in the discussion on the clause* : (1) Smt. Renu Chakravarthy ; (2) Shri H.V. Kamath ; (3) Shri Hem Barua ; (4) Shri U.M. Trivedi ; and (5) Shri A.K. Sen.

(c) *Voting on the clause* : 310 Ayes and 9 Noes.

11. *Third Reading* : No speeches made.

12. *Final voting on the motion that the Bill be passed* : 313 Ayes and 5 Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 30th August, 1962.

2. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 3rd September, 1962. (For one day, four days after the Bill was laid on the Table of the House).

3. *Time allotted for discussion* : 3 hours.

4. *Time taken for discussion* : 3 hours 5 mts. (12.10 p m. to 1 p.m. and 2 p.m. to 4.15 p.m.).

5. *Members who participated in the discussion on the above motion* : 12 (excluding the Mover), namely, (1) Shri P. Ramamurthy ; (2) Shri M.S. Gurupadaswamy ; (3) Shri A. Thangluru ; (4) Smt. Bedavati Burgohain ; (5) Shri M. Ruthnaswamy ; (6) Shri Nafisul Hasan ; (7) Shri Baharul Islam ; (8) Shri Dhayabhai V. Patel : (9) Shri L. Lalit Madhav Sharma ; (10) Shri A.D. Mani ; (11) Shri N.B. Maite ; and (12) Shri Jairamdas Daulatram.

6. *Voting on the above motion* : 175 Ayes and Nil Noes.

7. *Discussion on the clauses* :

Clause 2.— Amendment moved by Shri M.S. Gurupadaswamy. No speech made.

Voting on the clause : 175 Ayes and Nil Noes.

8. *Third Reading* : No Speeches made.

9. *Voting on the motion that the Bill be passed* : 176 Ayes and Nil Noes.

10. *Presidential assent given on* : 28th December, 1962.

CONSTITUTION (FOURTEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 30th August, 1962, by the Minister of Home Affairs, Shri Lal Bahadur Shastri.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 4th September, 1962. (For one day, five days after the introduction of the Bill in the House).

3. *Time allotted for discussion* : 3 hours.

4. *Time taken for discussion* : 4 hrs. 24 mts. (1.10 p.m. to 5.34 p.m.).

5. *Amendments tabled for the circulation of the Bill for eliciting opinion by* : Shri H.V. Kamath and Shri Dasaratha Deb. The former however, did not move the amendment.

6. *Members who participated in the above motion* : 17 (excluding the Mover), namely, (1) Shri Dasaratha Deb ; (2) Shri Rishang Reishing ; (3) Dr. Colaco ; (4) Shri P.R. Chakravarthi ; (5) Shri Lalit Sen ; (6) Shri Surendranath Dwivedi ; (7) Shri Frank Anthony ; (8) Shri Brahm Prakash ; (9) Shri Bade ; (10) Shri A.N. Vidyalankar ; (11) Shri Nawal Prabhakar ; (12) Shri Prakash Vir Shastri ; and (13) Dr. M S. Aney.

7. *Voting on the motion for consideration* : 297 Ayes and Nil Noes.

8. *Discussion on the clauses* :

Clause 2.—No amendment or discussion held on the clause.

Voting on the above clause : 245 Ayes and Nil Noes.

Clause 3.—(Amendment of the First Schedule)—

(a) *Members who moved amendments to the clause* : (1) Shri Yallananda Reddy ; and (2) Shri Nambiar.

(b) *Members who participated in the discussion on the clause* : (1) Shri Nambiar ; (2) Shri Yallananda Reddy ; (3) Shri Tirumala Rao ; and (4) Shri Jawaharlal Nehru.

(c) *Time allotted for all the clauses* : one hour.

(d) *Voting on the above clause* : 297 Ayes and 2 Noes.

Clause 4.—(Insertion of new article 299A)—

(a) *Members who moved amendments to the clause* : (1) Shri H.V. Kamath ; (2) Shri Nambiar ; (3) Shri Indrajit Gupta ; (4) Shri Yallananda Reddy ; (5) Shri Desaratha Deb ; (6) Shri Biren Dutt.

(b) *Members who participated in the discussion on the clause* : (1) Shri H V. Kamath ; (2) Shri Nambiar ; (3) Shri Biren Dutt ; (4) Shri Dasaratha Deb ; (5) Shri Indrajit Gupta ; (6) Shri Tyagi ; (7) Shri Jawaharlal Nehru ; (8) Shri Yallananda Reddy ; and (9) Shri Shiv Sharan Gupta.

Clause 5.—(Amendment of article 240)—

Shri H.V. Kamath moved an amendment and spoke on the clause.

Voting on the above clause along with clauses 6 and 7 on which there was no discussion : 298 Ayes and Nil Noes.

7. *Third Reading* : No speeches made.

8. *Final voting on the motion that the Bill be passed* : 293 Ayes and Nil Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 5th September, 1962.

2. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 7th September, 1962. (For one day, two days after the Bill was laid on the Table).

3. *Time allotted for discussion* : 4 hours

4. *Time taken for discussion* : 5 hrs 55 mts. (11.15 p.m. to 12.55 p.m. and 1.05 p.m. to 5·20 p.m.).

5. *Members who participated in the above motion* : 17 (excluding, the Mover), namely, (1) Shri P. Ramamurthy ; (2) Shri N.M. Anwer ; (3) Shri M.S. Gurupadaswamy ; (4) Shri Lokenath Mishra : (5) Kumari Shanta Vasisht ; (6) Shri A.P. Vajpayee ; (7) Shri Shiva Nand Ramaul ; (8) Smt. Anis Kidwai ; (9) Shri T.S. Pattabhiraman ; (10) Shri Mahesh Saran ; (11) Shri B.K.P. Sinha ; (12) Shri T.M. Dasgupta : (13) Shri B.D. Khobaragade ; (14) Shri Sudhir Ghosh ; (15) Shri Jawaharlal Nehru ; (16) Shri Bhupesh Gupta ; (17) Shri Mohan Lal Saksena ; and (18) Shri J.S. Pillai.

6. *Voting on the above motion* : 183 Ayes and Nil Noes.

7. *Discussion on the clauses* :

Clause 2.— No amendment or discussion on the clause.
Voting on the above clause : 182 Ayes and Nil Noes.

Clause 3.—

(a) *Amendment moved by* : Shri Bhupesh Gupta.

(b) *Members who participated in the discussion on the clause* : (1) Shri Bhupesh Gupta ; and (2) Shri P. Ramamurthi.

(c) *Voting on the above clause* : 185 Ayes and Nil Noes.

Clause 4.—

(a) *Amendments moved by* : (1) Shri Bhupesh Gupta ; and (2) Shri M.S. Gurupadaswamy.

(b) *Members who participated in the discussion*: (1) Shri Bhupesh Gupta ; (2) Shri M S. Gurupadaswami ; and (3) Syed Nausher Ali.

(c) *Voting on the above clause* : 182 Ayes and Nil Noes.

Clause 5.—

Voting on the above clause : 181 Ayes and Nil Noes.

Clause 6.—

(a) *Amendment moved by* : Shri A.D. Mani.

(b) *Members who participated in the discussion :* (1) Shri A.D. Mani ; and (2) Shri P. Ramamurthi.

(c) *Voting on the above clause* : 181 Ayes and Nil Noes.

Clause 7.—

Voting on the clause : 182 Ayes and Nil Noes.

8. *Third Reading* : No speeches made.

9. *Final voting on the motion that the Bill be passed* : 185 Ayes and Nil Noes.

10. *Presidential assent given on* : 28th December, 1962.

CONSTITUTION (FIFTEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 23rd November, 1962 by the Minister of Law, Shri A.K. Sen.

2. *Moved that the Bill be referred to a Joint Committee on* : 8th December, 1962. Discussed on 8th and 11th December, 1962 (For two days fifteen days after the Bill was introduced in the House).

3. *Time allotted for discussion* : 3 hours.

4. *Time taken for discussion* : 3 hrs. 45 mts., split up as, 8th : 1 hr. 49 mts. (4.11 p.m. to 6 p.m.) ; 11th : 1 hr. 56 mts. (12.49 p.m. to 2.45 p.m.).

5. *Members of the Joint Committee* : 45 : 30 from the Lok Sabha and 15 from the Rajya Sabha. The Lok Sabha members were : (1) Shri Brij Raj Singh ; (2) Shri S.N. Chaturvedi ; (3) Shri Homi J. Daji ; (4) Shri Ram Dhani Das ; (5) Shri R. Dharmalingam ; (6) Shri Kashi Ram Gupta ; (7) Sardar Iqbal Singh ; (8) Shri Madhavrao Laxmanrao Jadhav ; (9) Shri Medappa Bandappa Kadadi ; (10) Shri H.V. Kamath ; (11) Shri Paresh Nath Kayal ;

(12) Shri Nihar Ranjan Laskar ; (13) Shri Harekrushna Mahatab ; (14) Shri M. Malaichami ; (15) Shri Mathew Maniyangandam ; (16) Shri Bibudhendra Mishra ; (17) Shri F.H. Mohsin ; (18) Shri H.N. Mukerjee ; (19) Shri D J. Naik ; (20) Shri V.C. Parashar ; (21) Shri Ram Swarup ; (22) Shri C.L. Narasimha Reddy ; (23) Smt. Yashoda Reddy ; (24) Syed Nazir Hussain Samnani : (25) Shri Ram Shekhar Prasad Singh ; (26) Dr. L.M. Singhvi ; (27) Shri U.M. Trivedi ; (28) Shri Balgovind Verma ; (29) Shri Asoke K. Sen ; and (30) Shri S.V. Krishnamurthy Rao (Chairman).

6. According to Shri A.K. Sen's motion the date of submission of the Joint Committee Report was the last day of the first week of the next session but after the acceptance of Shri Tyagi's motion it was to be the first day of the next session. However, on 18th February, Shri Krishnamurthy Rao, the Chairman of the Joint Committee asked for extension of the submission of the Report up to 29th March, 1962 This was granted.

7. *Amendments moved* : (1) For the circulation of the Bill for eliciting opinion thereon by the 30th June, 1963 by Shri Tridib Kumar Chaudhuri ; (2) For the date of submission of the Report of the Joint Committee to be 'the first day of the next session' instead of 'the last day of the first week of the next session'.

8. *Members who participated in the motion for reference to the Joint Committee* : 15 (excluding the Mover), namely, (1) Shri Tridib Kumar Chaudhuri ; (2) Shri Tyagi ; (3) Shri Prabhat Kar ; (4) Shri K.C. Sharma ; (5) Shri Narendra Singh Mahida ; (6) Shri Shree Narayan Das ; (7) Shri Surendera Nath Dwivedy ; (8) Shri C.K. Bhattacharya ; (9) Shri Bade ; (10) Shri A.N. Vidyalankar ; (11) Dr. P.S. Deshmukh ; (12) Smt. Sarojini Mahishi ; (13) Shri S.M. Banerjee ; (14) Shri Harish Chandra Mathur ; and (15) Shri D.C. Sharma.

9. *The Report of the Joint Committee submitted on* : 8th March, 1963.

10. *Discussion on the Report of the Joint Committee held on* : 29th April, 30th April and 1st May, 1962 (For three days).

11. *Time allotted for the discussion on the Bill* : 5 hrs. for the main motion.

12. *Time taken for the discussion on the Bill* : 9 hrs. 23 mts., split up as 29th : 51 mts. (4.09 p.m. to 5 p.m.) ; 30th : 3 hrs. 38 mts. (1.22 p.m. to 5 p.m.) ; and 1st May : 4 hrs. 54 mts. (12.26 p.m. to 5.20 p.m.).

13. *Members who participated in the discussion on the Joint Committee Report* : 14 : (excluding the Mover) ; namely : (1) Shri Tridib Kumar Chaudhuri ; (2) Shri S S. More ; (3) Shri Himatsinka ; (4) Shri Daji ; (5) Shri A.N. Vidyalankar ; (6) Shri U.M. Trivedi ; (7) Shri M.B. Bhargava ; (8) Shri Narasimha Reddy ; (10) Shri Frank Anthony ; (11) Shri C.K Bhattacharya ; (12) Shri S.M. Banerjee ; (13) Shri Krishan Menon ; and (14) Shri H.V. Kamath.

14. *Amendments moved* for circulating the Bill for eliciting opinion thereon by 31st July, 1963 by Shri Tridib Kumar Chaudhuri and by the last day of the next session by Shri S.M. Banerjee.

15. *Voting on the report of the Joint Committee* : 270 Ayes and 51 Noes.

16. *Discussion on the clauses* :

(i) Clause 2.—(Amendment of article 124)—

(a) *Amendments moved by* : (1) Shri Sumat Prasad ; (2) Shri P.R. Patel ; (3) Shri S.N. Chaturvedi ; and (4) Shri Tridib Kumar Chaudhuri.

(b) *Members who participated in the discussion on the clause :* (1) Shri Sumat Prasad ; (2) Shri Tridib Kumar Chaudhuri ; (3) Shri S N. Chaturvedi ; (4) Shri P.R. Patel ; (5) Shri Joachim Alwa ; (6) Shri Prabhat Kar ; (7) Shri Kashi Ram Gupta ; (8) Shri Man Singh P. Patel ; (9) Shri C.K. Bhattacharya ; (10) Dr. L.M. Singhvi ; and (11) Shri Simhasan Singh.

(c) *Voting on the above clause* : 300 Ayes and 9 Noes.

(ii) Clause 3.—(Amendment of article 128)

Shri Prabhat Kar moved an amendment and spoke on the clause.

Voting on the clause : 288 Ayes and 35 Noes.

(iii) Clause 4.—(Amendment of article 217)—

(a) *Amendment moved by* : (1) Shri K.C. Sharma; (2) Shri Prabhat Kar ; (3) Shri H.V. Kamath ; (4) Shri Kashi

Ram Gupta ; (5) Dr. L.M. Singhvi ; (6) Shri Tridib Kumar Chaudhuri ; (7) Shri S.N. Chaturvedi ; and (8) Shri C.K. Bhattacharya.

(b) *Members who participated in the discussion on the clause* : (1) Shri K.C. Sharma ; (2) Shri Prabhat Kar ; (3) Shri H.V. Kamath ; (4) Shri Kashi Ram Gupta ; (5) Dr. L.M. Singhvi ; (6) Shri Tridib Kumar Chaudhuri ; (7) Shri C.K. Bhattacharya ; (8) Shri S. N. Chaturvedi ; and (9) Shri Bakar Ali Mirza.

(c) *Voting on the clause* : 291 Ayes and 37 Noes.

(iv) Clause 5.—(Amendment of article 222)—

Shri Kashi Ram Gupta and Dr. L.M. Singhvi moved amendments and spoke on the clause.

Voting on the clause : 313 Ayes and 11 Noes.

(v) Clause 6.—(Amendment of article 224)—

Shri Kashi Ram Gupta and Dr. L.M. Singhvi moved amendments and spoke on the clause.

Voting on the clause : 310 Ayes and 14 Noes.

(vi) Clause 7.—(Insertion of new article 224A)—

(a) Shri P.R. Patel and Shri Prabhat Kar moved amendments.

(b) Shri P.R. Patel ; Shri H.V. Kamath ; Dr. L.M. Singhvi ; Shri Bade ; and Shri Simhasan Singh spoke on the clause.

(c) *Voting on the clause* : 289 Ayes and 41 Noes.

(vii) Clause 8.—(Amendment of article 226)—

Shri Kashi Ram Gupta moved amendments and spoke on the clause.

Voting on the clause : 324 Ayes and Nil Noes.

(viii) Clause 9.—(Amendment of article 297)—

Dr. L.M. Singhvi spoke on the clause.

Voting on the clause : 328 Ayes and Nil Noes.

(ix) Clause 10.—(Amendment of article 311)—

(a) *Members who moved amendments* : (1) Shri H.V. Kamath ; (2) Shri Bade ; (3) Shri Prabhat Kar ; (4) Shri Priya Gupta ; (5) Dr. L.M. Singhvi ; and (6) Shri A.K. Sen.

(b) Members who participated in the discussion on the clause : (1) Shri H.V. Kamath ; (2) Shri Prabhat Kar ; (3) Shri Bade ; (4) Shri Priya Gupta ; (5) Shri Ranga ; (6) Dr. L.M. Singhvi ; (7) Shri S.N. Chaturvedi ; (8) Shri Daji ; (9) Shri Bakar Ali Mirza ; and (10) Shri A.N. Vidyalankar.

(c) *Voting on the clause* : 287 Ayes and 41 Noes.

(x) Clause 11.—(New clause 1A to article 316)—
No discussion or amendment on the clause.
Voting on the clause : 290 Ayes and Nil Noes.

(xi) Clause 12.—(Amendment of the Seventh Schedule)—
No discussion on or amendment to the clause.
Voting on the clause : 289 Ayes and 1 Noes.

17. *Third Reading* : No speeches made.

18. *Final voting on the motion that the Bill be passed* : 290 Ayes and 1 Noes.

At the Joint Committee stage :

1. The Joint Committee held 10 sittings, namely, on 14th Dec., 18th January, 13th, 15th, 16th, 18th, 19th, 20th and 21st February and 2nd March, 1963.

2. *Members who attended the sittings* : Details not available.

3. *Duration of the sittings* : 14th Dec. : 24 mts. (10.06 a.m. to 11.30 a.m.) ; 18th Jan. : 26 mts. (10.04 a.m. to 10.30 a.m.) ; 13th Feb. : 3 hrs. 35 mts. (2 p.m. to 5.35 p.m.) ; 15th : 4 hrs. 26 mts. (10.03 a.m. to 1.20 p.m. and 3.07 p.m. to 4.46 p.m.) ; 16th : 20 mts. (2.05 p.m. to 2.25 p.m.) ; 18th : 2 hrs. 35 mts. (2.30 p.m. to 5.05 p.m.) ; 19th : 1 hr. 46 mts. (5.14 p.m. to 7 p.m.) ; 20th : 1 hr. 19 mts. (4.05 p.m. to 5.24 p.m.) ; and 21st Feb. : 1 hr. 54 mts. (4.06 to 6 p.m.) ; and 2nd March : 20 mts. (5.05 p.m. to 5.25 p.m.). Total time : 17 hrs. 5 mts.

4. *Fourteen minutes of dissent were submitted to the Report* : (1) Shri S.N. Chaturvedi ; (2) Shri H.N. Mukerjee ; (3) Shri U.M. Trivedi ; (4) Syed Nausher Ali ; (5) Shri J.N. Kaushal, Shri Akbar Ali Khan, Shri Harekrushna Mehtab, Shri Iqbal Singh, and Shri Vijay Singh ; (6) Shri D.B. Desai ; (7) Shri Kashi Ram Gupta ;

(8) Shri Daji ; (9) Shri C.L. Narasimha Reddy and Shri Lokenath Mishra ; (10) Shri Gopi Krishna Vijayavargiya ; (11) Shri H.V. Kamath and Shri R.S. Khandekar ; (12) Shri Santosh Kumar Basu ; (13) Shri P.N. Sapru ; and (14) Dr. L.M. Singhvi.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House* the motion regarding the passage of the Bill by the Lok Sabha referring the Bill to a Joint Committee on 11th December, 1962.

2. *Discussion on the motion for reference of the Bill to the Joint Committee held on* : 12th December, 1962.

3. *Total time allotted for the discussion on the Bill* : 1 hour but later extended by 10 minutes.

4. *Total time taken for the discussion on the motion* : 1 hr. 10 mts. (4.10 p.m. to 5.20 p.m.).

5. *Members of the Joint Committee from the House* : 15 : (1) Syed Nausher Ali ; (2) Shri S.K. Basu ; (3) Shri K.S. Chavda ; (4) Shri D.B. Desai ; (5) Shri Jagan Nath Kaushal ; (6) Shri Akbar Ali Khan ; (7) Shri R.S. Khandekar ; (8) Shri Lokenath Mishra ; (9) Shri M.A. Manickavelu ; (10) Shri P.N. Sapru ; (11) Kumari Shanta Vasisht ; (12) Shri Vijay Singh ; (13) Shri Hari Vallab Tripathi ; (14) Shri Bipin Behary Varma ; and (15) Shri Gopi Krishna Vijayavargiya.

6. *Members who participated in the discussion on the above motion* : 4, (exclusive of the Mover), namely, (1) Shri Bhupesh Gupta ; (2) Shri K. Santhanam ; (3) Shri Mulka Govinda Reddy ; and (4) Shri N.M. Lingam.

7. The Secretary, Rajya Sabha *laid on the Table of the House* the Bill as passed by the Lok Sabha on 3rd May, 1963.

8. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 7th and 9th May, 1963. (For two days, four days after the Bill was laid on the Table).

9. *Total time allotted for the discussion on the Bill* : 3 hours.

10. *Total time taken for the discussion on the Bill* : 6 hrs. 6 mts., split up as follows, 7th : 41 mts. (5.20 p.m. to 6.01 p.m.) ; 9th : 5 hrs. 25 mts. (11.15 a.m. to 4.40 p.m.).

11. *Members who participated in the above motion* : 12 (excluding the Mover), namely, (1) Shri Bhupesh Gupta; (2) Shri Mulka Govinda Reddy; (3) Shri P.N. Sapru; (4) Shri G.S. Pathak; (5) Shri A.D. Mani; (6) Shri Santosh Kumar Basu; (7) Shri V.M. Chordia; (8) Shri B.D. Khobaragade; (9) Pandit S.S.N. Tankha; (10) Shri Pyare Lal Goyal; (11) Shri Niren Ghosh; and (12) Dr. (Smt.) Seeta Parmanand.

12. *Voting on the above motion* : 132 Ayes and 17 Noes.

13. *Discussion on the clauses* :

(i) Clause 2.—Amendment moved by Shri K.V. Raghunath Reddy and Shri Bhupesh Gupta spoke on the clause.

Voting on the clause : 133 Ayes and 19 Noes.

(ii) Clause 3.—No amendment or speech on the clause.

Voting on the clause : 134 Ayes and 18 Noes.

(iii) Clause 4.—Amendments moved by Shri K.V. Raghunath Reddy and Shri V.M. Chordia.

Voting on the clause : 134 Ayes and 17 Noes.

(iv) Clause 5.—No amendment or discussion on the clause.

Voting on the clause : 134 Ayes and 17 Noes.

(v) Clause 6.—Shri V.M. Chordia moved amendments and spoke on the clause.

Voting on the clause : 134 Ayes and 17 Noes.

(The Deputy Chairman then announced that he would put clauses 7 to 9 together to the vote of the House. This was objected to by Shri Bhupesh Gupta on the ground that there was no rule in the Rajya Sabha as in the Lok Sabha for putting the clauses together for vote although there was a convention based upon past practice. However, the Deputy Chairman agreed to put the clauses to vote separately.)

(vi) Clause 7.—*Voting on the clause* : 134 Ayes and 17 Noes.

(vii) Clause 8.—*Voting on the clause* : 150 Ayes and Nil Noes.

(viii) Clause 9.—*Voting on the clause* : 150 Ayes and Nil Noes.

(ix) Clause 10.—(a) *Amendments moved by* : (1) Shri Niren Ghosh ; (2) Shri K.V. Raghunath Reddy ; (3) Shri A.D. Mani ; (4) Shri K. Santhanam.

(b) *Members who participated in the discussion on the clause* : (1) Shri Niren Ghosh ; (2) Shri K.V. Raghunath Reddy ; (3) Shri A.D. Mani ; (3) Shri K. Santhanam ; (5) Shri Gopi Krishna Vijayavargiya ; (6) Shri Bhupesh Gupta ; and (7) Shri M.P. Shukla.

Voting on the clause : 135 Ayes and 22 Noes.

(x) Clause 11.—*Voting on the clause* : 149 Ayes and 3 Noes.

(xi) Clause 12.—*Voting on the clause* : 140 Ayes and 16 Noes.

Voting on clause 1, Enacting Formula, the Title : 135 Ayes and 2 Noes.

14. *Third Reading* · Speeches made by : (1) Shri S.K. Basu ; (2) Shri Bhupesh Gupta ; (3) Shri A.B. Vajpayee ; (4) Shri Rohit M. Dave ; (5) Shri Dahyabhai V. Patel.

15. *Final voting on the motion that the Bill be passed* : 136 Ayes and 20 Noes.

16. *Presidential assent given on* : 5th October, 1963.

CONSTITUTION (SIXTEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 21st January, 1963 by the Minister of Law, Shri A.K. Sen.

2. *Discussion on the motion that the Bill be referred to the same Joint Committee as the one constituted for the Constitution (Fifteenth Amendment) Bill held on* : 22nd January, 1963. (For one day, a day after the Bill was introduced in the House).

3. *Time allotted for the discussion on the Bill* : 3 hours.

4. *Total time taken for the discussion on the Bill* : 3 hrs. 13 mts. (12.28 p.m. to 3.41 p.m.).

5. *Members of the Joint Committee* : Same as that for the Constitution (Fifteenth Amendment) Bill.

6. Originally the Joint Committee was to submit its report on the first day of the next session. However, on 18th February,

1963, the Chairman of the Joint Committee, Shri S.V. Krishnamurthy Rao moved that the time allotted for the presentation of the Report be extended up to 29th March, 1963.

7. A substitute motion to the original was moved by Shri Kamath mentioning the names of the members of the Joint Committee including two paragraphs relating to quorum and the applicability of the Rules of Procedure of the House which had been omitted in the earlier motion, with the substitution of the date for the submission of the Report of the Joint Committee to the first day of the penultimate week of the next session. A compromise, however, was reached that the two clauses as also the names of members of the Joint Committee originally not mentioned would be included but that the date for the submission of the report would be that of the Law Minister's motion.

8. *Report of the Joint Committee submitted on* : 18th March, 1963.

9. *Members who participated in the motion for reference to the Joint Committee* : 14 (excluding the Mover), namely, (1) Shri B.N. Reddy ; (2) Shri Surendranath Dwivedi ; (3) Shri D.C. Sharma ; (4) Shri Shree Narayan Dass ; (5) Shri Manoharan ; (6) Shri C.K. Bhattacharya : (7) Shri K.C. Sharma ; (8) Shri Swell ; (9) Shri Tyagi : (10) Shri B.N. Mandal ; (11) Shri Prakash Vir Shastri ; (12) Shri Bade ; (13) Shri Yashpal Singh ; (14) Shri Khandekar.

10. *Discussion on the motion that the Bill as referred by the Joint Committee be taken into consideration held on* : 2nd May, 1963.

11. *Time allotted for the discussion on the Bill* : 3 hours.

12. *Time taken for the discussion on the Bill* : 3 hrs. 15 mts. (12.25 p.m. to 3.40 p.m.).

13. *Amendment moved* that the consideration of the motion be postponed on the ground that there was no emergency by Shri Era Sezhiyan.

14. *Members who participated in the above motion* : 8 (excluding the Mover), namely, (1) Shri H.N. Mukerjee ; (2) Shri Khandekar ; (3) Shri D.C. Sharma ; (4) Shri Subramanian ; (5) Shri

Narasimha Reddy ; (6) Shri Sezhiyan ; (7) Smt. Lakshmikanthamma ; and (8) Shri H.V. Kamath.

15. *Voting on the above motion* : 261 Ayes and 8 Noes.

16. *Discussion on the clauses* :

Clause 2.—(Amendment of article 19)—

(a) *Amendment moved by* : Shri H.V. Kamath.

(b) *Members who participated in the discussion on the clause* :

(1) Shri H.V. Kamath ; (2) Shri Bade ; and (3) Dr. L.M. Singhvi.

(c) *Voting on the above clause* : 293 Ayes and Nil Noes.

Clause 3.—(Amendment of article 84)—

No amendments or discussion on the clause.

Voting on the clause : 293 Ayes and Nil Noes.

Clause 4.—(Amendment of article 173)—

No amendment or discussion on the clause.

Voting on the clause : 291 Ayes and Nil Noes.

Clause 5.—(Amendment of Third Schedule)—

No amendment moved.

Shri Sivamurthi Swami spoke on the clause.

Voting on the clause : 297 Ayes and Nil Noes.

17. *Third Reading* : No speeches made.

18. *Final voting on the motion that the Bill be passed* : 300 Ayes and Nil Noes.

At the Joint Committee stage :

1. The Joint Committee held four sittings, namely, on 16th Feb., 2nd March, 12th March and 14th March, 1963.

2. *Members present at the various sittings* : 16th Feb. : 20 from the Lok Sabha and 12 from the Rajya Sabha ; 2nd March : 14 from the Lok Sabha and 4 from the Rajya Sabha ; 12th March : 11 from the Lok Sabha and 8 from the Rajya Sabha ; and 14th March : 11 from the Lok Sabha and 5 from the Rajya Sabha.

3. *Duration of the sittings* : 16th Feb. : 5 mts. (2.25 p.m. to 2.30 p.m.) ; 2nd March : 10 mts. (5.25 p.m. to 5.35 p.m.) ;

12th March : 1 hr. 3 mts. (4.07 p.m. to 5.20 p.m.) ; and 14th March : 6 mts. (5.04 p.m. to 5.10 p.m.). Total : 1 hour 24 mts.

4. There were three minutes of dissent, namely, by (1) Syed Nausher Ali ; (2) Shri H.V. Kamath ; (3) Shri R.S. Khandekar ; and (4) Shri C.L. Narasimha Reddy.

At the Rajya Sabha :

1. The Secretary Rajya Sabha, *laid on the Table of the House* the motion in respect of the reference of the Bill to the Joint Committee as passed by the Lok Sabha on 22nd January, 1963.

2. *Discussion on the above motion held on* : 25th January,1963. (For one day, three days after the Bill was laid on the Table of the House).

3. *Total time allotted for the discussion on the Bill* : 4 hours.

4. *Total time taken for the discussion on the Bill* : 4 hrs. (11.45 a.m. to 1 p.m. and 2 p.m. to 4.45 p.m.).

5. *Members of the Joint Committee from the House* : Same as in the case of the Constitution (Fifteenth Amendment) Bill.

6. *Members who participated in the above motion* : 12 (excluding the Mover), namely, (1) Shri Bhupesh Gupta ; (2) Shri M.S. Gurupadaswami ; (3) Shri Sheelbhadra Yajee ; (4) Shri Krishna Chandra ; (5) Shri C.N. Annadorai ; (6) Shri M.H. Samuel ; (7) Shri A.D. Mani ; (8) Shri G. Rajagopalan ; (9) Shri B.D. Khobaragade ; (10) Shri Abdul Gani ; (11) Shri V.M. Chordia ; and (12) Shri M.N. Govindan Nair.

7. The Secretary, Rajya Sabha *laid on the Table of the House* the Bill as passed by the Lok Sabha on 4th May, 1963.

8. *Discussion on the above motion held on* : 9th May, 1963. (For one day, five days after the Bill was laid on the Table of the House).

9. *Total time allotted for the discussion on the Bill* : 2 hours.

10. *Total time taken for the discussion on the Bill* : 1 hr. 55 mts.

11. *Members who participated in the above motion* : 6 (excluding the Mover), namely, (1) Shri Bhupesh Gupta ; (2) Shri B.K.P. Sinha ; (3) Shri C.N. Annadorai ; (4) Shri T.S. Pattabhiraman ; (5) Shri R.P. Sinha ; and (6) Shri V.M. Chordia.

12. *Voting on the above motion* : 137 Ayes and 1 Noes.

13. *Discussion on the clauses* :

No speeches or amendments made to any of the clauses.

Clause 2.—*Voting on the clause* : 135 Ayes and 1 Noes.

Clause 3.—*Voting on the clause* : 137 Ayes and 1 Noes.

Clause 4.—*Voting on the clause* : 137 Ayes and 1 Noes.

Clause 5.—*Voting on the clause* : 136 Ayes and 1 Noes.

14. *Third Reading* : No speeches made.

15. *Final voting on the motion that the Bill be passed* : 137 Ayes and 1 Noes.

16. *Presidential assent given on* : 5th October, 1963.

CONSTITUTION (SEVENTEENTH AMENDMENT)

1. *Introduced* originally in the Lok Sabha on 6th May, 1963 by the Minister of State in the Ministry of Home Affairs, Shri Hajarnavis as the Constitution (Seventeenth Amendment) Bill. As the Bill could not be passed with the requisite majority after the consideration of the Joint Committee report, it was *re-introduced* in the Lok Sabha on 27th May, 1964 by the Minister of Law and Communications Shri A.K. Sen, as the Constitution (Nineteenth Amendment) Bill.

2. *Original motion referred to a Joint Committee on* : 19th September, 1963 and it was discussed on 18th and 19th September. (For two days four months and 12 days after its introduction in the House.)

3. *Time allotted for the discussion of the Bill* : 7 hrs.

4. *Time taken for the discussion of the Bill* : 7 hrs. 9 mts , split up as, 18th : 2 hrs. 57 mts. (2.05 p.m. to 5.02 p.m.) ; and 19th : 4 hrs. 12.5 mts. (12.31.5 p.m. to 4.44 p.m.).

5. Originally the Joint Committee was to submit its report by the first week of the next session. But on 18th November, 1963, Shri Krishnamurthy Rao, Chairman of the Joint Committee moved for extension of the time for the submission of the Report to the last day of the first week of the next session. On 11th February, Shri Krishnamurthy Rao asked for further extension up to 31st March, 1964.

6. *Amendments moved* for circulating the Bill for eliciting opinion by the 15th February, 1964 by Shri N.G. Ranga. Two other motions moved by Shri Shreekantan Nair and Shri Lahri Singh respectively for a similar purpose were debarred by the Speaker on the ground that they were the same as Shri Ranga's. Shri Ranga's amendment was, however, rejected when put to vote by 29 Ayes to 189 Noes.

7. *Members of the Joint Committee* : 45 : 30 from the Lok Sabha and 15 from the Rajya Sabha. The Lok Sabha members were : (1) Shri S.V. Krishnamurthy Rao (Chairman) ; (2) Shri Bibuthi Mishra ; (3) Shri Sachindra Chaudhuri ; (4) Shri Surendranath Dwivedy ; (5) Shri A.K. Gopalan ; (6) Shri Kashi Ram Gupta ; (7) Shri Ansar Harvani ; (8) Shri Harish Chandra Heda ; (9) Shri Hem Raj ; (10) Shri A.P. Jain ; (11) Shri S. Kandappan ; (12) Shri Sherian J. Kappen ; (13) Shri L.D. Katoki ; (14) Shri Lalit Sen ; (15) Shri Harekrushna Mehtab ; (16) Shri Jaswant Raj ; (17) Shri Bibudhendra Mishra ; (18) Shri Purushottamdas R. Patel ; (19) Shri T.A. Patil ; (20) Shri A.V. Raghavan ; (21) Shri Raghunath Singh ; (22) Shri Bhola Raut ; (23) Chowdhury Ram Sevak ; (24) Shri M.P. Swamy ; (25) Dr. L.M. Singhvi ; (26) Shri U.M. Trivedi ; (27) Shri Radhelal Vyas ; (28) Shri Balkrishna Wasnik : (29) Shri Ram Sevak Yadav ; and (30) Shri A.K. Sen.

8. *Members who participated in the discussion on the motion* : 23 (excluding the Mover), namely, (1) Shri Ranga ; (2) Shri A.K. Gopalan ; (3) Shri Karuthiraman ; (4) Shri Man Singh P. Patel ; (5) Shri A.S. Alva ; (6) Shri Sumath Prasad , (7) Shri Maniyangadan ; (8) Shri Lahri Singh ; (9) Shri A.C. Guha ; (10) Shri H.V. Kamath ; (11) Shri N. Sreekantan Nair ; (12) Dr. P.S. Deshmukh ; (13) Shri Muthu Gaunder ; (14) Shri D.C.

Sharma ; (15) Shri Himatsingka ; (16) Shri Muthiah ; (17) Shri Vasudevan Nair ; (18) Shri Kurshnapal Singh ; (19) Shri V.P. Singh ; (20) Shri H.C. Soya ; (21) Shri K.N. Tiwari ; (22) Shri R.M. Lohia ; and (23) Shri Simhasan Singh.

9. *Report of the Joint Committee submitted on* : 25th March, 1964.

10. *Discussion on the Report of the Joint Committee held on* : 25th, 27th and 28th April, 1964. (For three days).

11. *Time allotted for the discussion on the motion* : 10 hrs.

12. *Total time taken for the discussion on the Bill* : 8 hrs. 15 mts., split up as, 25th : 2 hrs. 37 mts. (2.23 p.m. to 5 p.m.) ; 27th : 4 hrs. 43 mts. (12.17 p.m. to 5 p.m.) ; and 28th : 55 mts. (12.35. p.m. to 1.30 p.m.).

13. *Members who participated in the Report of the Joint Committee* : 27 (excluding the Mover), namely, (1) Shri Ranga ; (2) Shri P.R. Patel ; (3) Shri Surendranath Dwivedy ; (4) Shri Karuthiraman ; (5) Shri A.S. Alva ; (6) Shri B.P. Singh ; (7) Shri K.N. Tiwari ; (8) Shri Kashi Ram Gupta ; (9) Shri Daji ; (10) Shri Oza ; (11) Shri Gajraj Singh Deo ; (12) Shri D.C. Sharma ; (13) Shri P.G. Menon ; (14) Shri P N. Kayal ; (15) Dr. L.M. Singhvi ; (16) Shri Bakar Ali Mirza ; (17) Shri Vasudevan Nair ; (18) Shri M.L. Jadav ; (19) Dr. Sarojini Mahishi ; (20) Shri P.R. Chakravarthi ; (21) Shri Basappa ; (22) Shri Muthiah ; (23) Shri Bade ; (24) Shri Kishan Patnayak ; (25) Shri Simhasan Singh ; (26) Shri D.C. Patil ; and (27) Shri Sheo Narain.

14. *Voting on the Joint Committee Report* : 206 Ayes and 19 Noes. As it was below the requisite majority for the passage of the Bill at this stage, the motion was lost.

15. *Point of Order raised when the Bill was re-introduced on* : 27th May 1964.

16. *Voting on the motion that leave be granted for introduction of the Bill* : 318 Ayes and 31 Noes.

17. *Discussion on the motion that the Bill be taken into consideration held on* : 1st and 2nd June, 1964. (For two days, five days after the re-introduction of the Bill.)

18. *Total time allotted for the discussion on the Bill* : 3 hours for general discussion and 2 hours for the clauses. Total : 5 hours.

19. *Total time taken for the discussion on the Bill* : 7 hrs. 14 mts., split up as, : 1st : 4 hrs. 47 mts. (12.13 p.m. to 5 p.m.) ; 2nd : 2 hrs. 27 mts. (12.18 p.m. to 2.45 p.m.).

20. *Amendment moved* for the circulation of the Bill for eliciting opinion thereon by the 29th August, 1964 by Shri Yashpal Singh.

21. *Members who participated in the consideration motion* : 11 (excluding the Mover), namely, (1) Shri M.R. Masani ; (2) Shri A.K. Gopalan ; (3) Shri N.C. Chatterjee ; (4) Shri U.M. Trivedi ; (5) Shri J.B. Kripalani ; (6) Dr. L.M. Singhvi ; (7) Dr. B.N. Singh ; (8) Dr. M.S. Aney ; (9) Shri Kashi Ram Gupta ; (10) Shri Bade ; and (11) Shri Sarju Pande ;

22. *Voting on the consideration motion* : 389 Ayes and 30 Noes.

23. *Discussion on the clauses* :

(i) Clause 2.—(Amendment of article 31A)—

(a) *Amendments moved by* : (1) Dr. L.M. Singhvi ; (2) Shri Kashi Ram Gupta ; (3) Shri A.S. Alva ; and (4) Shri P.R. Patel.

(b) *Members who participated in the discussion on the clause* : (1) Dr. L.M. Singhvi ; (2) Shri Kashi Ram Gupta ; (3) Shri A.S. Alva ; (4) Shri Surendranath Dwivedy ; (5) Shri Krishnapal Singh ; (6) Shri Yashpal Singh ; and (7) Shri U.M. Trivedi.

(c) *Time allotted for the clause* : 1 hr. 30 mts.

(d) *Voting on the clause* : 353 Ayes and 24 Noes.

(ii) Clause 3.—(Amendment of the Ninth Schedule)—

(a) *Amendments moved by* : (1) Dr. L.M. Singhvi ; (2) Shri Kashi Ram Gupta ; (3) Shri A.P. Jain ; and (4) Shri U.M. Trivedi.

(b) *Members who participated in the discussion on the clause* : (1) Dr. L.M. Singhvi ; (2) Shri Kashi Ram Gupta ; and (3) Shri A.P. Jain.

(c) *Time allotted for the clause* : 30 mts.

(d) *Voting on the clause* : 368 Ayes and 31 Noes.

24. *Third Reading* : Shri Ranga, Shri Daji, Shri Surendranath Dwivedy, Dr. L.M. Singhvi, and Shri U.M. Trivedi spoke at this stage.

25. *Point of Order raised* that the House could not proceed with the Third Reading that day under Rule 93 of the Rules of the House. The Point of Order was not, however, sustained.

26. *Final voting on the motion that the Bill be passed* : 381 Ayes and 27 Noes.

At the Joint Committee stage :

1. *The Joint Committee held 14 sittings, namely, on* : 23rd Sept., 11th and 12th Oct., 12th and 13th Nov., 5th Dec., 1963 ; 23rd Jan., 24th Jan., 28th Jan., 29th Jan., 30th Jan., 22nd Feb., 10th March, and 17th March, 1964.

2. *Members who attended the sittings* : 23rd Sept. : 35 (24 from the Lok Sabha and 11 from the Rajya Sabha) ; 11th Oct. : 39 (27 from the Lok Sabha and 12 from the Rajya Sabha) ; 12th Oct. : 39 (26 from the Lok Sabha and 13 from the Rajya Sabha) ; 12th Nov. : 36 (23 from the Lok Sabha and 13 from the Rajya Sabha) ; 13th Nov. : 37 (13 from the Lok Sabha and 14 from the Rajya Sabha) ; 5th Dec. : 15 (9 from the Lok Sabha and 6 from the Rajya Sabha) ; 23rd Jan. : 37 (25 from the Lok Sabha and 12 from the Rajya Sabha) ; 24th Jan. : 35 (22 from the Lok Sabha and 13 from the Rajya Sabha) ; 28th Jan. : 32 (23 from the Lok Sabha and 9 from the Rajya Sabha) ; 29th Jan. : 34 (25 from the Lok Sabha and 9 from the Rajya Sabha) ; 30th Jan. : 33 (23 from the Lok Sabha and 10 from the Rajya Sabha) ; 22nd Feb. : 17 (10 from the Lok Sabha and 7 from the Rajya Sabha) ; 10th Mar. : 22 (16 from the Lok Sabha and 6 from the Rajya Sabha) ; and 17th Mar. : 25 (16 from the Lok Sabha and 9 from the Rajya Sabha).

3. *Duration of the sittings* : 32 hrs. 16 mts., split up as, 23rd : 42 mts. (9.30 a.m. to 10.12 a.m.) ; 11th : 4 hrs. 50 mts. (10 a.m. to 1.15 p.m. and 3.30 p.m. to 5.05 p.m.) ; 12th : 5 hrs.

(10 a.m. to 1.15 p.m. and 3.30 p.m. to 5.15 p.m.); 12th : 3 hrs. 3 mts. (10 a.m. to 1.03 p.m.); 13th : 5 hrs. 26 mts., (10 a.m. to 1.03 p.m. and 3.02 p.m. to 5.15 p.m.); 5th : 5 mts. (10 a.m. to 10.5 a.m.); 23rd : 3 hrs. 28 mts. (9.40 a.m. to 10.08 p.m.); 24th : 52 mts. (2.45 p.m. to 3.37 p.m.); 28th : 1 hr. 49 mts. (10.02 a.m. to 11.51 a.m.); 29th : 2 hrs. 23 mts. (10.32 a.m. to 12.55 p.m.); 30th : 2 hrs. 10 mts. (2.04 p.m. to 4.14 p.m.); 22nd Feb. : 40 mts. (2.40 p.m. to 3.20 p.m.) 10th : 1 hr. 10 mts. (5.05 p.m. to 6.15 p.m.); and 17th : 38 mts. (5.07 p.m. to 5.45 p.m.).

4. *Five minutes of dissent were submitted to the Report* : (1) Shri S.D. Patil; (2) Shri Purshottamdas R. Patel; (3) Shri P. Ramamurthy and Shri A.V. Raghavan; (4) Dr. L.M. Singhvi; and (5) Shri Kashi Ram Gupta, Shri Ram Sevak Yadav, and Dr. L.M. Singhvi.

5. Of the members none attended all the meetings and none was absent from all the meetings. Shri Hem Raj and Shri Lalit Sen from the Lok Sabha and Shri Nemi Chandra Kasliwal and Shri Nafisul Hassan of the Rajya Sabha attended 13 out of 14 sittings.

At the Rajya Sabha :

1. The Deputy Secretary, Rajya Sabha *laid on the Table of the House* the motion that the Bill for reference to the Joint Committee as passed by the Lok Sabha on : 19th September, 1963.

2. *Discussion on the motion for reference to the Joint Committee held on* : 21st September 1963. (Two days after the Bill was laid on the Table for one day).

3. *Time allotted for the discussion on the Bill* : 4 hours.

4. *Time taken for the discussion on the Bill* : 3 hrs. 55 mts. (11.10 a.m. to 12 Noon, 12.10 p.m. to 1 p.m. and 2.30 p.m. to 4.45 p.m.).

5. *Members of the Joint Committee from the House* : 15 : (1) Shri T.M. Das Gupta; (2) Shri Rohit K. Dave; (3) Shri Khandubhai K. Desai; (4) Shri N.C. Kasliwal; (5) Shri D.C.

Mallick ; (6) Shri Joseph Mathen ; (7) Shri Nafisul Hasan ; (8) Shri M.N. Govindan Nair (substituted by Shri P. Ramamurthi) ; (9) Sardar Raghbir Singh Panjhazari ; (10) Shri Sonusing Dhansing Patil ; (11) Shri Kota Punnaiah ; (12) Shri G. Rajagopalan ; (13) Thakur Bhanu Pratap Singh ; (14) Shri A.B. Vajpayee ; and (15) Shri J. Venkatappa.

6. *Members who participated in the above motion* : 12 (excluding the Mover), namely, (1) Shri K.V. Raghunath Reddy ; (2) Shri G.S. Pathak ; (3) Shri Mulka Govinda Reddy ; (4) Shri A.D. Mani ; (5) Shri Gopi Krishnna Vijayavargiya ; (6) Shri M.N. Govindan Nair ; (7) Shri Krishna Chandra ; (8) Shri Lokenath Mishra ; (9) Shri Dahyabhai V. Patel ; (10) Shri Sheel Bhadra Yajee ; (11) Shri V.M. Chordia ; and (12) Shri Abdul Gani.

7. The Secretary, Rajya Sabha *laid on the Table of the House* the Bill as passed by the Lok Sabha on 2nd June, 1964.

8. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 4th and 5th June, 1964. (For two days, two days after the Bill was laid on the Table of the House).

9. *Time allotted for the discussion on the Bill* : 6 hrs.

10. *Time taken for the discussion on the Bill* : 8 hrs. 43 mts., split up as, 4th June : 4 hrs. 3 mts. (12 Noon to 1.30 p.m. and 2.30 p.m. to 5.03 p.m.) ; and 5th : 4 hrs. 40 mts. (12.05 p.m. to 4.45 p.m.).

11. *Members who participated in the discussion on the above motion* : 31 (excludiug the Mover), namely, (1) Shri Dahyabhai V. Patel ; (2) Shri G.S. Pathak ; (3) Shri K. Damodaran ; (4) Prof M.B. Lal ; (5) Shri J.S. Bisht ; (6) Shri Patil Puttappa ; (7) Shri K.V. Raghunath Reddy ; (8) Shri T.V. Anandan ; (9) Shri T. Chenarayon ; (10) Shri M. Ruthnaswamy ; (11) Shri Gopi Krishna Vijayavargiya ; (12) Smt. Mohindar Kaur : (13) Shri Uedavrao Sahibrao ; (14) Shri K.C. Baghel ; (15) Shri A.B. Vajpayee ; (16) Shri S. Chandrasekhar ; (17) Shri Babubhai M. Chinai ; (18) Shri A.D. Mani ; (19) Shri P.N. Sapru ; (20)

Shri B.K. Gaikwad ; (21) Shri Nafisul Hasan ; (22) Shri C.K. Govindan Nair ; (23) Shri Bude Murahari ; (24) Shri Abdul Gani ; (25) Shri D.L. Sen Gupta ; (26) Shri M.P. Shukla ; (27) Shri Devi Singh ; (28) Shri Ram Sahai ; (29) Shri R.C. Mitra ; (30) Shri Jagat Narain ; and (31) Shri Bhupesh Gupta.

12. *Voting on the above motion* : 174 Ayes and 9 Noes.

13. *Discussion on the clauses* :

(i) Clause 2.—(a) *Amendment moved by* Shri K. Damodaran.

(b) *Speeches made by* Shri K. Damodaran and Shri Bhupesh Gupta.

(c) *Voting on the clause* : 177 Ayes and 9 Noes.

(ii) Clause 3.—No amendments or discussion on the clause. *Voting on the clause* : 176 Ayes and 10 Noes.

14. *Third Reading* : Speeches made by Shri Dahyabhai Patel, Shri Bhupesh Gupta and Shri B.K. Gaikwad.

15. *Final voting on the motion that the Bill be passed* : 177 Ayes and 9 Noes.

16. *Presidential assent given on* : 20th June, 1964.

CONSTITUTION (EIGHTEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha *at first* as the Constitution (Nineteenth Amendment) Bill on 9th May 1966, by the Minister of State in the Ministry of Home Affairs and Defence Supplies in the Ministry of Defence, Shri Jaisukh Lal Hathi on behalf of the Minister of Home Affairs, Shri G.L. Nanda.

2. Shri H.V. Kamath opposed the introduction of the Bill under Rule 72 of the Rules of Procedure and Conduct of Business of the House. The Speaker, however, held that the Bill could be introduced.

3. *Motion moved that the Bill be taken into consideration by* Shri Hathi on behalf of the Minister of Home Affairs, Shri G.L.

Nanda, on 16th May, 1966. (Seven days after the introduction of the Bill)

4. *Time allotted for the discussion on the Bill* : 2 hours.

5. *Time taken for the discussion on the Bill* : 15 mts.

6. None participated in the discussion on the consideration motion so much so that the voting had to be had before the scheduled time.

7. *Voting on the consideration motion* : 2 Ayes and 170 Noes. As the special majority was not got, the motion was not carried.

8. As Rule 338 of the Lok Sabha Rules of Procedure and Conduct of Business forbids the introduction of a motion substantially identical with the one on which the House had given a decision in the same session, *the Bill was re-introduced on 25th July, 1966*, the first day of the following special session of the Lok Sabha, by the Minister of State in the Ministry of Law, Shri C.R. Pattabhiraman.

9. *Motion moved that the Bill be taken into consideration* by the Minister of Law, Shri G.S. Pathak, on 10th August, 1966. (Sixteen days after the Bill was re-introduced).

10. *Time allotted for the discussion on the Bill* : 2 hours.

11. *Time taken for the discussion on the Bill* : 2 hrs. 30 mts. (1.15 p.m. to 3.45 p.m)

12. *Members who participated in the discussion* : 15 (excluding the Mover) (1) Shri H.N. Mukerjee ; (2) Shri Hem Raj ; (3) Shri Alvares ; (4) Shri Buta Singh ; (5) Shri G.N. Dixit ; (6) Shri Virbadra Singh ; (7) Shri Prakash Vir Shastri ; (8) Shri D.C. Sharma ; (9) Shri Yudvir Singh ; (10) Shri Pratap Singh ; (11) Dr. L.M. Singhvi ; (12) Shri J.B.S. Bisht ; (13) Shri Jagdev Singh Sidhanti ; (14) Shri Gopal Dutt Mengi ; and (15) Dr. M.S. Aney.

13. *Voting on the consideration motion* : 313 Ayes and none against.

14. *Discussion on the clauses* :

Clause 2.—(Amendment of article 3)—

Shri U.M. Trivedi moved an amendment and spoke on the Clause. His amendment was, however, lost when put to vote.

Voting on the clause : 297 Ayes and 2 Noes.

Clause 3.—(Short Title)—

Amendment moved by Shri G.S. Pathak for substitution of the word 'Twentieth' by the word 'Eighteenth'. Motion adopted without a division as there was no need for that.

15. *Third Reading* : No speeches made.

16. *Final voting on the motion that the Bill be passed* : 306 Ayes and Nil Noes.

At the Rajya Sabha :

1. *Message of the receipt of the Bill as passed by the Lok Sabha* communicated to the House by the Secretary, Rajya Sabha on 11th August 1961.

2. *Discussion on the motion that the Bill be taken into consideration held on* : 24th August 1966.

3. *Time allotted for the discussion on the Bill* : 2 hrs. 30 mts.

4. *Time taken for the discussion on the Bill* : 4 hrs. 20 mts. (12.50 p.m. to 5.10 p.m.). Sat through the Lunch Hour.

5. *Amendment moved* : For the reference of the Bill to a Select Committee consisting of 12 members, namely, (1) Shri A.B. Vajpayee ; (2) Shri Mulka Govinda Reddy ; (3) Shri Bhupesh Gupta ; (4) A.D. Mani ; (5) Shri Lokenath Misra ; (6) Shri Goure Murahari ; (7) Shri Abdul Ghani ; (8) Shri Niren Ghosh ; (9) Shri Duttopant Thengari ; (10) Shri B.K. Gaikwad ; (11) Shri A.B. Chatterjee ; and (12) Shri Raj Narain, with instructions to report within a month by Shri Raj Narain.

The motion, however, was negatived when put to vote.

6. *Point of order raised by* : Shri Banke Behari Das. He contended : (i) that the change in the title of the Bill from 'Twentieth' to 'Eighteenth' had been treated very lightly ; (ii) that Shri G.S. Pathak was not competent to pilot the Bill as he was not

the member incharge according to the entry on the Bill ; (iii) that even Shri G.L. Nanda was not competent if he had piloted the Bill as the matter under consideration did not properly belong to him according to the list of Government departments which belonged to the different Ministries ; and (iv) the objective of the Bill would not be achieved merely by amendment of article 3 as article 1 had the Schedule and as such that also should be amended.

Shri Bhupesh Gupta, Shri Niren Ghosh, Shri Raj Narain participated in the discussion. Shri G.S. Pathak replied to the point of order.

Having heard both sides, the Chairman held that it was right and proper that that discussion might go on.

7. *Members who participated in the discussion on the motion* : 10 (excluding the Mover), namely, (1) Shri Bhupesh Gupta ; (2) Shri R.T. Parthasarathy ; (3) Shri A.B. Vajpayee ; (4) Shri Sheelbadra Yaji ; (5) Shri Mulka Govinda Reddy ; (6) Shri Anand Chand ; (7) Shri M. Ruthnaswamy ; (8) Shri Raj Narain ; (9) Shri A.P. Chatterjee ; and (10) Shri C.L. Verma.

8. *Voting on the above motion* : 15 Ayes and 2 Noes.

9. *Discussion on the clauses* :

Clause 2.—

Amendment moved by : Shri C.L. Verma.

Shri Bhupesh Gupta expressed the desire to speak but was disallowed as they had already discussed the only clause during the consideration stage.

Voting on the above motion : 157 Ayes and 2 Noes.

Clause 1, Enacting Formula and the Title—

No amendment moved. However, Shri Bhupesh Gupta, Shri A.B. Chatterjee, Shri A B. Vajpayee, Shri Abdul Gani, Shri G. Murahari and Shri Raj Narain spoke at this stage.

Voting on the above motion : 157 Ayes and Nil Noes.

10. *Third Reading* : Shri A.D. Mani. Shri B.K.P. Sinha and Shri Niren Ghosh spoke on the motion that the Bill be passed.

11. *Final voting that the Bill be passed* : 156 Ayes and Nil Noes.

12. *Presidential assent given to the Bill on* : 27th August, 1966.

CONSTITUTION (NINETEENTH AMENDMENT)

1. *Introduced* in the Lok Sabha on 29th August, 1966 by the Minister of Law, Shri G.S. Pathak as the Constitution (Twenty-first Amendment) Bill.

2. As it was desired to take up the Constitution (Twenty-first Amendment) Bill along with the Representation of the People Act, 1950 and the Representation of the People Act, 1951, as reported by the Joint Committee, which happend to be the previous Bills in the list of business, the Minister of State in the Ministry of Law, Shri C.R. Pattabhiraman on behalf of the Law Minister, Shri G.S. Pathak, moved on 8th November, 1966, a motion under Rule 388 of the House that Rule 66 in its application to the motions for taking into consideration and passing of the Constitution (Twenty-first Amendment) Bill be suspended.

In the discussion that followed, Shri Shree Narayan Das, Shri Radhelal Vyas, Dr. M.S. Aney, Shri C.K. Bhattacharya, Shri Narendra Singh Mahida and the Minister of Law, Shri G.S. Pathak participated.

The motion for the suspension of the proviso to Rule 66 was then put to the vote of the House and that was adopted.

3. *Discussion on the Constitution Amendment Bill* along with the Bills relating to the Representation of People Acts 1950 and 1951 as reported by the Joint Committee was held on 8th, 9th, 15th, and 22nd November, 1966.

On the 8th November, 1966 immediately after Shri G S. Pathak had spoken, the House adjourned for the day for want of quorum.

On the 9th, at the outset, there was some discussion with regard to the allotment of time for the discussion of the Bills as also the desirability of taking up for discussion the Constitution Amendment Bill first. Shri Kamath raised two points of order,

one regarding the propriety of discussing the Bills together and the desirability of taking up the Constitution Amendment Bill first and another regarding the ground on which Rule 66 was suspended. In the discussion that followed in respect of the above, besides Shri Kamath, the Speaker, Shri N C. Chatterjee, Dr. L.M. Singhvi, Shri Radhelal Vyas and Shri G.S. Pathak participated. The Speaker sustained the first point of order of Shri Kamath and ruled that the Constitution Amendment Bill would be voted first ; ruled out Shri Kamath's second point of order ; and fixed the time for the general discussion of the Bill to a little over 4 hours (4 hrs. 22 mts. to be precise) as against the Business Advisory Committee's allotment of 5 hours, for all stages of the Bill, 3 hours being allotted for the general discussion.

As the discussion could not be completed on the 9th as scheduled, it was continued on the following day, the 10th November.

At the outset, on the 10th, the Minister of State in the Department of Parliamentary Affairs and Communications, Shri Jagannatha Rao requested that the time for the general discussion be extended up to 3.30 p.m. that day, the discussion having commenced at 2.24 p.m. (i.e.) 1 hour and 6 mts. He also requested that the voting be postponed for the 15th November, 1966. The Speaker agreed to the suggestions. The time was extended up to 3.30 p.m. and that the voting would take place on 5th November, 1966.

On 15th November, 1966, the Minister of Parliamentary Affairs and Communications, Shri Satya Narayan Sinha, moved under Rule 109 of the Rules of the House that the debate on the Bills be adjourned on the ground that the members had gone to U.P. and Bihar in connection with the drought situation in those States. The adjournment was sought for a week by which time it was expected that the members would be back. In the discussion that followed, Shri Madhu Limaye, Shri H.N. Mukerjee, Shri U.M. Trivedi, Shri H.V. Kamath, Shri S.M. Banerjee, Shri Kashi Ram Gupta, Shri Kishen Patnayak, Shri M.R. Bagri, Shri Satya Narayan Sinha and the Minister of Law, Shri G.S. Pathak participated. Subsequently, the motion was put to the vote of the House. The House division recorded, 153 Ayes and 30 Noes,

and the motion was consequently adopted. (It is to be noted that only a simple majority was required in this case.)

The general discussion on the Bill was resumed on 22nd November, when Shri G.S. Pathak replied to the discussion on the Bill.

4. *Time allotted for discussion on the Bill* : 5 hrs. 28 mts.

5. *Total time taken for the discussion on the Bill* : 6 hrs. 47.5 mts., split up as follows, 8th : 44 mts. (4.10 p.m. to 4.54 p.m.) ; 9th : 4 hrs. 24 mts. (1.08 p.m. to 5.32 p.m.) ; 10th : 1 hr. 06 mts. (2.24 p.m. to 3.30 p.m.) ; 15th : 28.5 mts. (12.10.5 p.m. to 12.39 p.m.) ; 22nd : 5 mts. (12.52 p.m. to 12.57 p.m.).

6. *Members who participated in the consideration motion* : 23 (excluding the Mover), namely, (1) Shri Muhammad Ismail ; (2) Shri N.C. Chatterjee ; (3) Shri Daji ; (4) Smt. Renuka Ray ; (5) Shri K.N. Pandey ; (6) Shri Umanath ; (7) Smt. Yashoda Reddy ; (8) Shri Madhu Limaye ; (9) Shri Gopinath Dixit ; (10) Shri Sezhiyan ; (11) Shri Tyagi ; (12) Shri H.V. Kamath ; (13) Shri A.S. Saigal ; (14) Shri Ranga ; (15) Shri M.L. Dwivedi ; (16) Dr. L.M. Singhvi ; (17) Shri Joachim Alva ; (18) Shri Narendra Singh Mahida ; (19) Shri K.C. Sharma ; (20) Shri M. Malachami ; (21) Shri U.M. Trivedi ; (22) Shri D C. Sharma ; and (23) Shri Radhelal Vyas.

(It is to be noted that most of the Speakers spoke on the other Bill.)

7. *Voting on the consideration motion* : 263 Ayes and 5 Noes.

8. *Discussion on the clauses* :

Clause 2.—(Amendment on article 324)—

Shri Shree Narayan Das moved an amendment and spoke on the clause. But the amendment was negatived when put to vote.

Voting on the clause : 269 Ayes and 2 Noes.

Clause 1.—(The Title)—

Shri Pathak moved an amendment for the substitution of the word 'Nineteenth' for the word 'Twenty-first'.

Motion on the clause was adopted.

9. *Third Reading* : No speeches made.

10. *Final voting on the motion that the Bill be passed :* 272 Ayes and Nil Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 23rd November, 1966.

2. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 30th November, 1966.

3. *Time allotted for the discussion on the Bill* : 2 hours.

4. *Time taken for the discussion on the Bill* : 1 hr. 45 mts. (12.35 p.m. to 1 p.m. and 2.30 p.m. to 3.50 p.m.).

5. *Members who participated in the above motion* : 10 (excluding the Mover), namely, (1) Shri Dhayabhai V. Patel ; (2) Shri T. Chengalvarayon ; (3) Shri Bhupesh Gupta ; (4) Shri Mulka Govinda Reddy ; (5) Pandit S.S.N. Tankha ; (6) Shri Arjun Arora ; (7) Shri Raj Narain ; (8) Shri V.M. Chordia ; (9) Shri Jagat Narain ; and (10) Shri Mahavir Prasad Shukla.

6. *Vote on the consideration motion* : 131 Ayes and Nil Noes.

7. *Discussion on the clauses* :

Clause 2.—No amendment or discussion.

Voting on the clause : 131 Ayes and Nil Noes.

Clause 1, the Enacting Formula and the Title : No discussion or amendment.

Voting on the clause : 130 Ayes and Nil Noes.

8. *Third Reading :*

Shri Raj Narain and Shri Lokenath Misra spoke on the motion that the Bill be passed.

9. *Final voting on the motion that the Bill be passed* : 137 Ayes and 2 Noes.

10. *Presidential assent given to the Bill on* : 11th December, 1966.

CONSTITUTION (TWENTIETH AMENDMENT)

1. *Introduced* in the Lok Sabha on 25th November, 1966 by the Minister of Home Affairs, Shri Y.B. Chavan, as the Constitution (Twenty-third Amendment) Bill.

2. *Discussion on the motion that the Bill be taken into consideration* moved by the Minister of Law, Shri G.S. Pathak on behalf of the Minister of Home Affairs, Shri Y.B. Chavan, held on 3rd December 1966. (Eight days after the introduction of the Bill).

3. As the matter did not come before the Business Advisory Committee, no time was fixed for the discussion on the Bill. The Leader of the House, Shri Satya Narayan Sinha, wanted the sense of the House to be taken with regard to the allotment of time. Shri. S Banerjee proposed that *the time allotted be* three hours. That was adopted.

4. *Time taken for the discussion on the Bill* : 3 hrs. 30 mts. (1.10 p m. to 4 40 p.m.).

5. *Members who participated in the discussion on the above motion* : 14 (excluding the Mover), namely, (1) Shri Nath Pai ; (2) Shri Joachim Alwa ; (3) Shri Sarjoo Pande ; (4) Dr. L.M. Singhvi ; (5) Shri G.N. Dixit ; (6) Shri N.C. Chatterjee ; (7) Shri Narendra Singh Mahida ; (8) Shri Nambiar ; (9) Shri A.N. Vidyalankar ; (10) Shri Bade ; (11) Shri K.C. Sharma ; (12) Shri Madhu Limaye ; (13) Shri Sheo Narain ; and (14) Shri S.M. Banerjee.

6. *Amendments moved* : (1) For summoning the Attorney General to the House to give his opinion on the Bill by Shri S.M. Banerjee ;

(2) For referring the Bill to the President for obtaining the opinion of the Supreme Court under article 143 by Shri S.M. Banerjee ;

(3) For circulation of the Bill for eliciting opinion thereon by 31st March, 1967 by Shri Yashpal Singh.

The three motions were, however, negatived.

7. *Voting on the consideration motion* : 281 Ayes and 2 Noes.

8. *Discussion on the clauses* :

Clause 2.—(Insertion of new article 233A)—

Two amendments moved by Shri G.S. Pathak for the substitution of the word 'Twenty-third' by 'Twentieth'. No discussion on the amendments or the clause as such.

Voting on the clause : 279 Ayes and 10 Noes.

Clause 1.—(Short Title)—

Shri Pathak moved an amendment for the substitution of the word 'Twentieth' for the word 'Twenty-third'. The motion was adopted without any division as that was not required.

9. *Third Reading* : Speeches made by Shri Nath Pai, Shri Nambiar, Shri Yadav and Shri Bade.

10. *Final voting on the motion that the Bill be passed* : 274 Ayes and 26 Noes.

At the Rajya Sabha :

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the Bill as passed by the Lok Sabha on 4th December, 1966.

2. *Discussion on the motion that the Bill as passed by the Lok Sabha be taken into consideration held on* : 9th December, 1966.

3. *Time allotted for the discussion on the Bill* : Four hours.

4. *Time taken for the discussion on the Bill* : 4 hrs. 5 mts. (12.45 p.m to 4.50 p.m.).

5. *Amendments moved* : For referring the Bill to a Select Committee :

(1) By Shri M.P. Shukla to a committee consisting of 10 members, namely, (1) Shri G.S. Pathak ; (2) Shri P.N. Sapru ; (3) Shri B.K.P. Sinha ; (4) Diwan Chaman Lal ; (5) Shri Mulka Govinda Reddy ; (6) Kumari Shanta Vasisht ; (7) Shri Lokenath Misra ; (8) Shri Bhupesh Gupta ; (9) Shri V.M. Chordia ; and (10) Shri M.P. Shukla with instructions to report by the first day of the next session.

(2) By Shri Raj Narain to a committee consisting of 10 members, namely, (1) Shri G. Murahari ; (2) Shri A.B. Vajpayee ; (3) Shri A.D. Mani ; (4) Shri Mulka Govinda Reddy ; (5) Shri A.P. Chatterjee ; (6) Shri Lokenath Misra ; (7) Shri Bhupesh Gupta ; (8) Shri Chitta Basu ; (9) Shri B.N. Mandal ; and (10) Shri Raj Narain, with instructions to report within a week.

The above motions were, however, negatived. Shri M.P. Shukla wished to withdraw the motion but leave was not given.

6. *Members who participated in the motion that the Bill as passed by the Lok Sabha be taken into consideration* : 11 (excluding the Mover), namely, (1) Shri Raj Narain ; (2) Shri M.P. Shukla ; (3) Shri Mulka Govinda Reddy ; (4) Shri A.P. Chatterjee ; (5) Dr. M.M.S. Siddu ; (6) Shri C.D. Pande ; (7) Shri Niranjan Varma ; (8) Shri Suresh J. Desai ; (9) Pandit S.S.N. Tankha ; (10) Shri Bhupesh Gupta ; and (11) Shri M.N. Kaul.

7. *Voting on the consideration motion* : 141 Ayes and 11 Noes.

8. *Discussion on the clauses* :

Clause 2.—

(a) *Amendment moved by* : Shri M.P. Shukla.

(b) *Members who participated in the discussion on the above clause* : (1) Shri M.P. Shukla ; (2) Shri Mulka Govinda Reddy ; (3) Shri Bhupesh Gupta ; and (4) Shri Raj Narain.

(c) *Voting on the clause* : 138 Ayes and 11 Noes.

Clause 1, Enacting Formula and the Title :

No discussion held or amendment moved.

Voting on the clause : 139 Ayes and 11 Noes.

9. *Third Reading* : No speeches made.

10. *Final voting on the motion that the Bill be passed* : 140 Ayes and 11 Noes.

11. *Presidential assent given to the Bill on* : 22nd December, 1966.

CONSTITUTION (TWENTY-FIRST AMENDMENT)

1. *Introduced* originally as the Constitution (Twenty-first Amendment) Bill in the Rajya Sabha on 21st November, 1966 by the Minister of Home Affairs (Shri Y.B. Chavan).

2. *Discussion on the motion that the Bill be taken into consideration held on* : 9th December, 1966 (18 days after the Bill was introduced).

3. *Time allotted for the discussion on the Bill* : one hour.

4. *Time taken* : 55 minutes (4.50 p.m. to 5.45 p.m.).

5. *Members who participated in the motion for consideration* : 9, namely. (1) Shri Mulka Govinda Reddy ; (2) Shri Jairamdas Daulatram ; (3) Shri Atal Bihari Vajpayee ; (4) Shri Bhupesh Gupta ; (5) Pandit B.P. Tiwari ; (6) Shri Niren Ghosh ; (7) Shri Sheelbhadra Yaji ; (8) Shri B.K P. Sinha ; and (9) Shri Y.B. Chavan (Minister of Home Affairs).

6 *Voting on the motion that the Bill be taken into consideration* : 145 Ayes and Nil Noes.

7. *Clause by clause consideration on the Bill* :

A Clause 2 —Amendment of the Eighth Schedule—

(a) *Amendments moved by* : Shri Niren Ghosh.

(b) *Members who participated in the discussion on the clause* : (1) Shri Niren Ghosh ; (2) Shri A.P. Chatterjee ; (3) Shri Bhupesh Gupta ; and (4) Shri A.B. Vajpayee.

(c) Shri Niren Ghosh's amendment was put to vote and that was negatived.

(d) *Voting on the clause* : 144 Ayes and Nil Noes.

B. Clause 1.—Short Title—

(a) *Amendment moved by* : Shri Y.B. Chavan.

(b) *Voting on clause 1* : 142 Ayes and Nil Noes.

(c) *Enacting Formula and the Title* :

Voting on the above : 143 Ayes and Nil Noes.

8. *Third Reading* : There was no speech made.

9. *Voting on the motion that the Bill be passed* : 143 Ayes and Nil Noes.

10. After the passage of the Bill in the Rajya Sabha the Bill remained pending in the Lok Sabha, but it lapsed because of the dissolution of the Third Lok Sabha on 3rd March, 1967.

11. *Reintroduced* in the Rajya Sabha as the Constitution (Twenty-first Amendment) Bill on 20th March, 1967 by the Minister of Home Affairs (Shri Y.B. Chavan).

12. *Discussion on the motion that the Bill be taken into consideration held on* : 21st April, 1967. (A fortnight after the Bill was reintroduced).

13. *Time allotted for the discussion on the Bill* : one hour.

14. *Time taken* : 47 mts. (12.50 p.m. to 1.05 p.m. and 2.46 p.m. to 3.18 p.m.).

15. *Members who participated in the discussion* : 14, namely, (1) Shri Bhupesh Gupta ; (2) Shri Mulka Govinda Reddy ; (3) Shri Lokenath Misra ; (4) Shri V.M. Chordia ; (5) Kumari Shanta Vasisht ; (6) Shri Kota Punniah ; (7) Shri G.P. Somasundaram ; (8) Shri Abid Ali ; (9) Shri Devi Singh ; (10) Shri M.P. Shukla ; (11) Shri Raj Narain ; (12) Smt. Yashoda Reddy ; (13) Shri Jairamdas Daultram ; and (14) Shri Y B. Chavan (Minister of Home Affairs).

16. A noteworthy feature of the debate was that the members spoke in their respective regional languages.

17. *Voting on the motion that the Bill be taken into consideration* : 136 Ayes and Nil Noes

18. *Voting on Clause 2* : 134 Ayes and Nil Noes.

Voting on Clause 1 together with the Enacting Formula and Title : 136 Ayes and Nil Noes.

19. *Third Reading* : Shri Banke Behari Das spoke at this stage.

20. *Voting on the final motion that the Bill be taken* : 135 Ayes and Nil Noes.

At the Lok Sabha :

1. The Secretary *Lok Sabha laid on the Table of the House*, the Bill as passed by the Rajya Sabha on 4th April, 1967.

2. *Discussion on the motion that the Bill be taken into consideration* held on 7th April, 1967 (3 days after the Bill was laid on the Table).

3. *Time allotted for the discussion on the Bill* : one hour.

4. *Time taken* : 1 hr. 16.5 mts (3.14 p.m. to 4.30.5 p.m.) inclusive of the time taken for the clauses and the final passage.

5. *Members who participated in the discussion :* 13, namely, (1) Shri A.B. Vajpayee ; (2) Dr. Govind Das ; (3) Shri N. Dandekar ; (4) Shri C.K. Bhattacharya ; (5) Shri G. Viswanathan; (6) Shri A.V. Patil ; (7) Shri George Fernandes ; (8) Shri M.Y. Saleem ; (9) Shri T.M. Seth ; (10) Shri K. Lakkappa ; (11) Shri Kushok Bakula ; (12) Shri M. Meghachandra ; and (14) Shri Y.B. Chavan (Minister of Home Affairs).

6. *Voting on the motion that the Bill be taken into consideration* : 306 Ayes and Nil Noes.

7. *Discussion on the clauses* :

A. Clause 2.—Amendment of the Eighth Schedule—

(a) *Voting on the above clause* : 326 Ayes and 1 Noes.

B. Clause 1, the Enacting Formula and the Title—

(a) the motion was adopted by a simple majority.

8. *Third Reading* : No speeches made.

9. *Voting on the final motion that the Bill be passed* : 326 Ayes and Nil Noes.

The Bill received the Presidential assent on : 10th April, 1967.

THE CONSTITUTION (TWENTY-SECOND AMENDMENT)

1. *Introduced* in the Lok Sabha on 10th December, 1968 by Shri Y.B. Chavan (Minister of Home Affairs).

2. To introduce two new articles, namely, articles 244A and 271B and to amend article 275.

3. *Discussion on the motion for reference to a Joint Committee held on* : 20th December, 1968 (for one day, three days after the introduction of the Bill). At the outset the House adopted a motion to suspend the first proviso to Rule 74 of the Rules of Procedure and Conduct of Business in the Lok Sabha in its application to the motion for reference of the Bill further to amend the Constitution of India to a Joint Committee of the two Houses.

4. *Time allotted for discussion* : 2 hrs. 30 mts.

5. *Time taken* : 2 hrs. 28 mts. (12.40 p m. to 1.01 p.m. and 2.05 p m. to 4.12 p.m.).

6. The Joint Committee to submit report to the Lok Sabha by the first day of the next session (i.e) 17th February 1969. As that was not possible, the Committee at their fourth sitting held on the 13th February, 1969 decided to ask for extension of time for presentation of their Report up to the 12th March, 1969. Necessary motion was brought before the House and adopted on the 17th February, 1969.

7. *The Report of the Joint Committee submitted on* : 12th March, 1969.

8. *Members of the Joint Committee* : 45 (i.e.) 30 from the Lok Sabha and 15 from the Rajya Sabha. The Lok Sabha members were : (1) Shri Debananda Amat ; (2) Shri Bedabrata Barua ; (3) Shri Fakhruddin Ali Ahmad ; (4) Shri B. Bhagwati ; (5) Shri R.D. Bhandare ; (6) Shri Anil K. Chanda ; (7) Shri M.K. Nanja Gowder ; (8) Shri Hem Barua ; (9) Shri Dhireswar Kalia ; (10) Shri M.K. Kaushik ; (11) Shri Valmiki Choudhary ; (12) Shri Balraj Madhok ; (13) Shri K. Anandan Nambiar ; (14) Shri Nihal Singh ; (15) Chaudhary Nitiraj Singh ; (16) Shri T.D. Ramabhadran ; (17) Shri M.B. Rana ; (18) Chaudhari Randhir Singh ; (19) Shri J. Ramapathi Rao ; (20) Shri V. Sambasivam ; (21) Shri Shantilal Shah ; (22) Shri Naval Kishore Sharma ; (23) Shri Prakash Vir Shastri ; (24) Shri Sheo Narain ; (25) Shri V.C. Shukla ; (26) Shri C.G. Swell ; (27) Shri Om Prakash Tyagi ; (28) Shri Atal Bihari Vajpayee ; (29) Shri G. Viswanathan ; and (30) Shri Y.B. Chavan (Minister of Home Affairs).

9. *Amendment moved* for circulating the Bill for eliciting opinion thereon by the 15th February, 1969 by Shri Abdul Ghani Dar It was, however, negatived by the House.

10. *Members who participated in the motion for reference to the Joint Committee* : 11 (excluding the Mover), namely : (1) Shri Surendranath Dwivedi ; (2) Shri P. Venkatasubbaiah ; (3) Shri Nanja Gowder ; (4) Shri B. Bhagwati ; (5) Shri Balraj Madhok ; (6) Shri C.G. Swell ; (7) Shri Basumatari ; (8) Shri S. Kandappan ; (9) Shri Prem Chand Varma ; (10) Shri Vasudevan Nair ; and (11) Shri S M. Joshi.

11. The motion for reference of the Bill to the Joint Committee was adopted.

At the Rajya Sabha

1. The Secretary, Rajya Sabha *laid on the Table of the House*, the motion on the Bill for reference to the Joint Committee as passed by the Lok Sabha on 21st December, 1968.

2. *Discussion on the motion for reference of the Bill to the Joint Committee moved by* : Shri K.S. Ramaswamy (Deputy Minister in the Ministry of Home Affairs) held on 28th December, 1968.

3. *Time allotted* :

4. *Time taken* : 7 mts. (5.48 p.m. to 5.55 p.m.).

5. *Members of the Joint Committee from the Rajya Sabha* : 15, namely, (1) Dr. B.N. Antani ; (2) Shri Pitamber Das ; (3) Shri K. Chandrasekharan ; (4) Shri G. Barbora ; (5) Shri A.D. Mani ; (6) Shri P. Chetia ; (7) Shri Sriman Prafulla Goswami ; (8) Shri Hayatulla Ansari ; (9) Shri E.M. Sangama ; (10) Shri P.C. Mitra ; (11) Shri Awadheswar Prasad Sinha ; (12) Shri M.L. Kokur ; (13) Shri B.C. Pattanayak ; (14) Shri G.R. Patil ; and (15) Shri Dalpat Singh.

6. *There was no discussion on the Bill.* Shri Lokenath Misra observed that as the proposal was going to the Select Committee they would not discuss it at that stage.

At the Joint Committee stage :

1. The message from the Rajya Sabha that it had concurred in the motion for reference of the Bill to a Joint Committee was published in the Lok Sabha Bulletin on 31st December, 1968.

2. The Joint Committee held six sittings, namely, on 18th January ; 11th, 12th, 13th and 25th February ; and 5th March, 1969.

3 *Total time taken at the Joint Committee level* : 7 hrs. 55 mts., split up as, 18th Jan: 1 hr. 30 mts. (5 p.m. to 5.35 p m.) ; 11th Feb. : 45 mts. (3 p.m. to 3.45 p.m.) ; 12th Feb. : 1 hr. 30 mts. (3 p m. to 4.30 p.m.) ; 13th Feb. : 1 hr. 50 mts. (3 p.m. to 4.05 p.m. and 4 30 p m. to 5.15 p.m.) ; 25th Feb. : 1 hr. 30 mts. (9 a.m. to 10 30 a.m.) ; and 5th March : 45 mts. (10 a.m. to 10.45 a.m).

4. *There were nine minutes of dissent to the Report submitted by* : (1) Shri K. Chandrasekharan ; (2) Shri Gopal Barbora ; (3) Shri Debananda Amat ; (4) Shri C.G. Swell ; (5) Shri Hem Barua and Shri Prakash Vir Shastri ; (6) Shri K. Anandan Nambiar ; (7) Shri A.D. Mani ; (8) Shri Atal Bihari Vajpayee, Shri Om Prakash Tyagi, Shri Pitamber Das and Shri Balraj Madhok ; and (9) Shri M. Sangama.

5. The Committee did not make any changes of importance except for adding the words 'for the Constitution and proper functioning of such Committee' after the words 'Assembly' at the end of the proposed new article 371B in clause 4 of the Bill. The Committee also made consequent changes in the year of enactment at the commencement of the Bill, namely, 'Twentieth' for 'Nineteenth' and in clause 1 substituted the year '1968' by the year '1969'.

Consideration of the Joint Committee Report by the Lok Sabha :

1. The Lok Sabha took up for consideration the Report of the Joint Committee on a motion moved by the Minister of Home Affairs (Shri Y.B. Chavan) on 24th March, 1969 (12 days after the presentation of the Report).

2. *Discussion on the Report of the Joint Committee was held* on 24th and 25th March, 1969.

3. *Time allotted* :

4. *Time taken* : 4 hrs. 54 mts., split up as, 24th : 46 mts. (5.44 p.m. to 6.30 p.m.) ; 25th : 4 hrs. 8 mts. (12.50 p.m. to 1 p.m. and 2.02 p.m. to 6.10 p.m.).

5. *Members who participated in the consideration of the Joint Committee Report* : 17 including the Minister, namely, (1) Shri Om Prakash Tyagi ; (2) Shri Biswanarayan Shastri ; (3) Shri Ganesh Ghosh ; (4) Shri R. Barua ; (5) Shri S.M. Joshi ; (6) Shri J.N. Hazarika ; (7) Shri Ranga ; (8) Shri Bedabrata Barua ; (9) Shri Dhireswar Kabita ; (10) Shri Basumatari ; (11) Shri Hem Barua ; (12) Shri P. Venkatasubbaiah ; (13) Shri Swell ; (14) Shri Jaipal Singh ; (15) Shri Lobo Prabhu ; (16) Shri Abdul Ghani Dar ; and (17) The Minister of Home Affairs (Shri Y B. Chavan).

6. Shri Srinibas Misra raised a point of order seeking clarification of certain provisions in the Bill, before proceeding with the consideration of the Bill. In the discussion that followed, Shriyuts Swell, R.D. Bhandari, Shiva Chandra Jha, Biswanarayan Shastri and Y.B. Chavan participated The Speaker admitting that the points raised were valid, held that they were arguments for opposing the Bill and as such could be raised by an amendment or some such thing.

7. The voting on the motion for consideration of the Joint Committee Report was 265 Ayes and 19 Noes. As that constituted the requisite majority, the motion was adopted.

8. The House then took up clause by clause consideration of the Bill.

Clause 2 was first taken up.

(1) *Amendments were moved by* : (a) Shri Lobo Prabhu (2) (b) Shri Shiva Chandra Jha (3) ; (c) Shri Ganesh Ghosh (1) ; and (d) Shri Srinibas Misra (8).

(2) *Members who participated in the discussion* :

(1) Shri Lobo Prabhu ; (2) Shri Atal Bihari Vajpayee ; (3) Shri Shiva Chandra Jha ; (4) Shri Ganesh Ghosh ; (5) Shri Srinibas Misra ; (6) Shri Hem Barua ; and (7) Shri Y.B. Chavan.

(3) Voting on clause 2 : 248 Ayes and 13 Noes.

As the number was the less than the required majority, the motion was declared lost.

9. As the motion was not carried, Shri Y.B. Chavan announced that the Government proposed to re-introduce the Bill.

10 Members of various political parties in the House spoke criticising the Government on its failure to muster the necessary majority to get the Bill passed despite their co-operation. The following members spoke : (1) Shri Nath Pai ; (2) Shri Shivaji Rao S. Deshmukh ; (3) Shri Madhu Limaye ; (4) Shri H.N Mukerjee ; (5) Shri Kanwar Lal Gupta ; (6) The Minister of Parliamentary Affairs and Shipping and Transport (Shri Raghu Ramaiah ; (7) Shri Ranga ; and (8) Shri Balraj Madhok.

11. On 2nd April, 1969, Shri Y.B. Chavan moved that clause (b) of rule 110 of the Rules of Procedure and Conduct of Business in the Lok Sabha in its application to the motion for withdrawal of the Constitution (Twenty-Second Amendment) Bill, as reported by the Joint Committee, be suspended as the clause required inclusion of additional provisions in the Bill to replace the original Bill.

12. In the discussion that followed, Sarva Shri Kanwar Lal Gupta, S.M. Banerjee, Prakash Vir Shastri, Madhu Limaye, M R. Masani, R.D. Bhandare and the Prime Minister (Smt. Indira Gandhi) participated.

13. The Prime Minister expressed her regret for the inconvenience caused to the Members and assured the House that they would see in future that that short of thing did not happen.

14. The motion for suspension of Rule 110 (c) was adopted That being done Shri Y.B. Chavan moved for leave for withdrawal of the Bill. Leave being given the Bill was withdrawn.

Reconsideration of the Bill

1. Eight days after leave was granted to withdraw the Bill, the Constitution (Twenty-Second Amendment) Bill was sought to be reintroduced in the Lok Sabha on 10th April, 1969.

2. At the outset, the Minister of Home Affairs (Shri Y.B. Chavan) moved that Rule 338 of the Rules of Procedure and Conduct of Business of Lok Sabha be suspended to facilitate the introduction of the Constitution (Twenty-Second Amendment) Bill. In the discussion that followed Members spoke for or against the motion. Shriyuts B K. Das Chowdhury, Atal Bihari Vajpayee, Ranga, H N. Mujkerjee, A.K. Gopalan, Parkash Vir Shastri and the Minister of Home Affairs (Shri Y.B. Chavan) spoke on the motion. The motion was, however, adopted.

3. The motion for the suspension of the Rule being adopted the Minister of Home Affairs (Shri Y.B. Chavan) moved for leave to introduce the Bill.

4. Shri Kanwar Lal Gupta opposed the motion for leave to introduce the Bill. However, on Shri Chavan pointing out that the merits of the Bill could be gone into at the consideration stage, the motion was adopted and the Bill was introduced.

5. The re-introduced Bill incorporated the changes proposed by the Joint Committee.

6. The House took up for consideration of the Bill, five days later, on 15th April, 1969 on a motion moved by Shri Chavan (The Minister of Home Affairs). At the outset, the Home Minister moved that Rule 338 on the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for taking into consideration the Consideration the Constitution (Twenty-Second Amendment) Bill, 1969 be suspended.

7. Shri Shree Chand Goyal opposed the motion for suspension of the Rule. However, the motion to suspend the Rule was adopted. Shri Abdul Ghani Dar spoke at this stage.

8. Discussion on the motion for consideration held on 15th April, 1969.

9. *Time allotted* : 2 hrs.

10 *Time taken* : 2 hrs. 30 mts. (12-13 p.m. to 1 p.m. and 2.02 p.m. to 3.45 p.m.)

11. *Members who participated in the discussion* : 13 (excluding the Minister) namely (1) Shri Abdul Ghani Dar ; (2) Shri Ranga ;

(3) Shri H.N. Mukerjee ; (4) Shri Shree Chand Goyal ; (5) Shri Krishna Kumar Chatterjee ; (6) Shri Swell ; (7) Shri Nambiar ; (8) Shri Jaipal Singh ; (9) Shri Surendranath Dwivedi ; (10) Shri Kartik Eraon ; (11) Shri Prakash Vir Shastri ; (12) Shri B.K. Das Chowdhury ; and (13) Shri S.M. Joshi.

12. Shri B K. Das Chowdhury raised a point of order and spoke. But the Speaker ruled that it was not a point of order.

13. The voting on the motion for consideration was 365 Ayes and 30 Noes.

14. Clause by clause consideration was then taken up.

Clause 2 was taken up for consideration first :

(a) Amendments were moved by : (1) Shri Abdul Ghani Dar (4) ; (2) Shri Shiva Chandra Jha (4) and (3) Hem Barua (2)

(b) Members who participated in the discussion on the clause : (1) Shri Shiva Chandra Jha ; (2) Shri Abdul Ghani Dar ; (3) Shri S.S. Kothari ; and (4) Shri Hem Barua.

(c) The voting on the clause : 364 Ayes and 33 Noes.

Clause 3 was subsequently taken up :

(a) Amendment moved by Shri Shiva Chandra Jha. He spoke on his amendment.

(b) Voting on the clause : 372 Ayes and 30 Noes.

Consideration of clause 4 then took place. Shri Hem Barua moved an amendment but did not speak. Voting on the clause : 374 Ayes and 31 Noes.

Clause 1, the Enacting Formula and the Title were then added up.

15. Shri Chavan then moved that the motion that the Bill be passed be taken up. Shri Kanwar Lal Gupta and Shri S.M. Banerjee spoke at this stage.

16. Voting on the motion that the Bill be passed : 369 Ayes and 28 Noes.

17. As that constituted the requisite majority the Bill was passed.

At the Rajya Sabha

1. Discussion on the motion for consideration moved by Shri Y.B. Chavan (The Minister of Home Affairs) held on 30th April 1969 (Fifteen days after it was passed by the Lok Sabha).

2. Time allotted :—

3. *Time taken* : 4 hrs. 34 mts. (12.08 p.m. to 1 p m. and 2 p.m. to 5.42 p.m.)

4. Members who participated in the discussion : 16 (including the Minister), namely : (1) Shri M. Ruthnaswamy ; (2) Shri M. Vero ; (3) Shri Sunder Singh Bhandari ; (4) Shri M. Purkayastha ; (5) Shri G. Barbora ; (6) Shri Sriman Prafulla Goswami ; (7) Shri K. Chandrasekharan ; (8) Shri Sheel Bhadra Yaji ; (9) Shri A.P. Chatterjee ; (10) Shri Baharul Islam ; (11) Shri Bhupesh Gupta ; Shri A.D Mani ; (13) Shri Jagat Narain ; (14) Shri Pitamber Das ; (15) Shri Rajnarain ; and (16) Shri Y. B. Chavan.

5. Voting on the motion for consideration was 173 Ayes and 7 Noes.

6. Clause by clause consideration was then taken up. As there were no amendments or discussions voting was taken straight-away.

7. Voting on clauses 2, 3, 4 and Clause 1 including the Enacting Formula and Title were : 173 : 7 ; 172 : 7 : 173 : 7 and 173 : 7 respectively.

8. The motion that the Bill be passed was put before the House. At this stage Shri Z.A. Ahmad, Dr. Bhai Mahavir, Shri B.K.P. Sinha, Shri Rajnarain, Shri Narinder Singh Brar and Shri Y.B. Chavan spoke.

9. Voting on the motion that the Bill be passed was 175 Ayes and 6 Noes.

10. As this constituted the required majority, the Bill was passed.

The Presidential assent was given to the Bill on 29th September, 1969.

SYNOPTICAL DETAILS REGARDING PRIVATE MEMBERS' CONSTITUTION (AMENDMENT) BILLS

I. BILLS DISCUSSED IN THE LOK SABHA

1. The Constitution (Amendment) Bill, 1961 (Bill No. 9 of 1961).

(1) *Introduced* on 24th March, 1961 by Shri C.R. Pattabhiraman.

(2) *Amendment*—of article 226.

(3) *Time allotted* : 2 hours—*Time Taken* : 2 hrs. 17 mts.

(4) *Discussion on the motion for considerotion held on* : 5th May and 18th August, 1961.

(5) *Amendment moved* for circulating the Bill for eliciting opinion thereon by Shri R.R. Morarka.

(6) *Members who participated in the consideration motion* : (1) Shri Sadhan Gupta ; (2) Dr. M.S. Aney ; (3) Shri N.R. Muniswamy Pillai ; (4) Shri C.R. Narasimhan ; (5) Shri R.M. Hajarnavis (The Deputy Minister of Law).

(7) *Minister supported the motion for the circulation of the Bill.*

(8) *Time Limit for the circulation of the Bill : 31st October*, 1971.

(9) *Motion for reference of the Bill to a Select Committee* with instructions to report by the 30th March, 1962 moved on 23rd March, 1962.

(10) The above *motion discussed* along with Shri C.R. Narasimhan's motion on the same subject on 23rd. March, 1962.

(11) *Members of the Select Committee* : 16 : (1) Shri A. R. Achar ; (2) Shri P. Subbiah Ambalam ; (3) Shri

S M. Banerjee ; (4) Shri R. Rananathan Chettiar ; (5) Shri Dinesh Singh ; (6) Shri T. Ganapathi ; (7) Shri R.M. Hajarnavis ; (8) Dr. G.S. Melkote ; (9) Shri R.R. Morarka ; (10) Shri C.R. Narasimhan ; (11) Shri P.T. Thanu Pillai ; (12) Shri K S. Ramaswamy ; (13) Shri Jaganath Rao ; (14) Shri A.K. Sen ; (15) Shri D.C. Sharma and (16) Shri C.R. Pattabhiraman.

(12) *Members who participated in the motion for reference to the S.C. :* 10 : (1) Shri V.P. Nayar ; (2) Shri N. R. Muniswamy ; (3) Shri D.C. Sharma ; (4) Shri Warior ; (5) Shri S.M. Banerjee ; (6) Dr. M.S. Aney ; (7) Shri Jagdish Awasthi ; (8) Shri R.M. Hajarnavis ; (9) Shri C.R. Pattabhiraman and ; (10) Shri C.R. Narasimhan.

(13) *Minister appealed to the Mover for the withdrawal of their Bills.*

(14) The Bill was withdrawn after leave was given.

2. *The Constitution (Amendment) Bill, 1961* (Bill No. 24 of 1961).

1. *Introduced* on 18th August, 1961, by Shri C.R. Narasimhan.

2. *Amendment of* Article 226.

3. *Discussion on the motion for circulation of the Bill for eliciting opinion thereon by* 1st November, 1961 held on 1st Sept., 1961.

4. *Signatories to the Bill in the earlier stages* : (1) Shri Maniyangadan ; (2) Shri Kuttikrishna Nair ; (3) Shri Siddiah ; (4) Shri K.S. Ramaswamy ; (5) Shri N.R. Muniswamy ; (6) Shri Rami Reddy ; (7) Shri Achar ; and (8) Shri Somwane.

5. *Members who participated in the discussion on circulation motion* : Shri N.R. Muniswamy and Shri R.M. Hajarnavis.

6. *Minister supported the circulation motion.*

7. Further discussion on the Bill taken up along with Shri C.R. Pattabhiraman's Bill above.

3. The Constitution (Amendment) Bill, 1962 (Bill No 67 of 1962)

1. *Introduced* on 22nd June, 1962 by Shri D.C. Sharma.
2. *Amendment of* article 226.
3. *Discussion on the motion for consideration held on* : 31st August, 16th November and 30th November, 1962.
4. The Deputy Minister of Law, Shri Bibudhendra Mishra observed that there was no need for the above amendment in view of Government's decision to bring forward an amendment of article 226 itself. An announcement to that effect was made on 30th Nov., 1962.
5. *The Deputy Minister pleaded for the withdrawal of the Bill.*
6. *The motion* was, however, *put to the division of the House* under Rule 157. The Result of the division was : 5 for and 86 against. The motion was, therefore, lost.

4. The Constitution (Amendment) Bill, 1962 (Bill No. 66 of 1962)

1. *Introduced* on 17th August, 1962 by Shri M.L. Dwivedi.
2. *Amendment of* articles 100 and 189.
3. *Time allotted* : 1hr 30 mts.—Time Taken : 1hr. 10mts.
4. *Motion objected to at the introduction stage.* Hence put to vote and vote taken by count of members standing on their seats The result of the count was 31 in favour and none against.
5. *Motion for the consideration of the Bill moved on* 3rd May, 1963.
6. At the outset, Shri H.V. Kamath drew the attention of the Members to the absence of the Minister when Shri Dwivedi moved the motion. Shri Dwivedi observed that that did not matter as he would reply on behalf of the Minister if there was any question with regard to law or

anything relating to the Constitution. Shri S. Banerjee, however, questioned that remark.

7. *Point of order raised* by Shri S.S. More to the effect that the Constitution contemplated that a change in the quorum should be only by law but that the effect of Shri Dwivedi's Bill would be that instead of by law they were making a change by rules of procedure, which was not the intention of the Constitution. The Deputy Speaker ruled that there was no point of order as there was nothing to prevent the House from changing the Constitution.

8. *Members who participated in the discussion :* 13 ; (1) Shri Warior ; (2) Dr. M.S. Aney ; (3) Shri Yashpal Singh ; (4) Shri Jyothishi ; (5) Shri K.K. Verma ; (6) Shri W.V. Kamath ; (7) Shri S.S. More ; (8) Dr. L.M. Singhvi ; (9) Shri Himatsinghka ; (10) Shri Gauri Shankar Kakkar; (11) S.M. Banerjee ; (12) Shri Satyanarayana Sinha ; and (13) Shri Hajarnavis (The Minister of State in the Ministry of Home Affairs).

9. *Minister moved the motion that the discussion on the Bill be adjourned.*

(10) *Motion that the debate on the Bill be adjourned was adopted.*

5. The Constitution (Amendment) Bill, 1961 (Bill No. 74 of 1962)

1. *Introduced* on 16 November, 1962 by Shri Shree Narayan Das.

2. *Amendment* of articles 136, 226, 227, 228 and 329.

3. *Motion for consideration of the Bill held on* : 13th Sept., and 22nd November, 1963.

4. *Motion for circulating the Bill for eliciting opinion thereon* by 30th June, 1964 moved by Shri S.S. Samantha.

5. *Members who participated in the discussion* : (1) Shri S.C. Samantha ; (2) Shri Hem Raj ; and (3) Shri S.K. Sen.

6. *Minister agreed to the circulation of the Bill for eliciting public opinion.* The Motion was, therefore, adopted.

7. On 13th May, 1966 *motion was moved for referring the Bill to a Select Committee* consisting of 25 members namely, (1) Dr. M.S. Aney ; (2) Shri Brij Raj Singh ; (3) Smti Renu Chakravarthy ; (4) Shri Basant Kumar Das ; (5) Shri G.N. Dixit ; (6) Shri Ganapati Ram ; (7) Shri S. Hansda ; (8) Shri H V. Kamath ; (9) Smt. T. Lakshmi Kanthamma ; (10) Shri Madhu Limaye ; (11) Shri H.C. Mathur ; (12) Shri C.R. Pattabhiraman ; (13) Shri Raghunath Singh ; (14) Shivaram Rango Rane : (15) Shri N.G. Ranga ; (16) Shri Shyam Lal Saraf ; (17) Shri Era Sezhiyan ; (18) Smt. Jayaben Shah ; (19) Shri Sidheswar Prasad ; (20) Dr. L.M. Singhvi ; (21) Smt. Tarakeshwari Sinha ; (22) Shri Simhasan Singh ; (23) Shri Ravindra Serma ; (24) Shri A.N. Vidyalankar ; and (25) Shri Shree Narayan Das, with instructions to report by the last day of the first week of the next session.

8. *Members who participated in the discussion* : 8 : (1) Shri H.V. Kamath ; (2) Shri G.N. Dixit ; (3) Shri Mansing P. Patel ; (4) Shri Onkar Lal Berwa ; (5) Shri Narendra Singh Mahida ; (6) Shri D.C. Sharma ; (7) Shri Madhu Limaye ; and (8) Shri C.R. Pattabhiraman (the Minister of State in the Ministry of Law).

9. *Minister opposed the motion for reference to the Select Committee and requested that it be withdrawn.*

10. *Leave being given, the motion was withdrawn.*

6. *The Constitution (Amendment) Bill, 1962 (Bill No. 75 of 1962).*

1. *Introduced* on 17th August, 1962 by Shri K.C. Sharma.

2. *Amendment* of articles 125 and 217.

3. *Discussion on the motion for consideration held on* : 10th April 1964.

4. *Time allotted* : 1hr. 30 mts.

5. *Members who participated in the discussion* : (1) Shri D.C. Sharma ; (2) Shri K. Hanumanthiah ; (3) Dr. Sarojini Mahishi ; (4) Shri Oza ; (5) Dr. R.M. Lohia ; & (6) Shri Jaisukhalal Hathi (The Minister of State in the Ministry of Home Affairs.

6. *Minister suggested the desirability of not pressing for the Bill.*

7. *Mover, however, pressed for acceptance.* Hence put to the division of the House. Voting : 12 for and 55 against.

8. The motion was, therefore,*negatived.*

7. The Constitution (Amendment) Bill, 1962 (Bill No. 76 of 1962)

1. *Introduced* on 31st August, 1962 by Shri Tika Ram Paliwal.

2. *Amendment of* article 167 and insertion of the article 155A.

3. *Discussion on the motion for consideration held on* : 5th April 1963 and 19th April, 1963.

4. *Time allotted*: Originally one hour but subsequently extended by another hour.

5. *Time taken* : 2hrs. 12 mts. split up as : 5th : 1 hr. 27 mts. (4.27 p.m. to 6.04 p.m.) ; 19th : 45 mts. (3.32 p.m. to 4.17 p.m.)

6. *Motion for circulating the Bill moved by* : (1) Shri Sidheswar Prasad by 31st July, 1963 ; (2) Shri Kashi Ram Gupta by 20th June 1963.

7. *Members who participated in the motion*:(1) Shri Brajeshwar Prasad (2) Shri Yashpal Singh ; (3) Shri Bibuthi Mishra : (4) Shri Simhasan Singh ; (5) Shri H.C. Mathur ; (6) Shri K.C. Sharma ; (7) Dr. M.S. Aney ; and (8) Shri Hajarnavis (Minister of State in the Ministry of Home Affairs).

8. Minister said that he was opposed to the main motion as well as the two motions for circulating the Bill.

9. Shri Sidheswar Prasad's motion was negatived when put to vote ; and Shri Kashi Ram Gupta's motion was debarred.

10 Shri Paliwal requested leave for withdrawal of the Bill. Leave being given *the motion was withdrawn*

8. The Constitution (Amendment) Bill, 1962 (Bill No. 89 of 1962)

1. *Introduced* on 31st August, 1962 by Shri C.K. Bhattacharya.
2. *Amendment of* article 343.
3. *Motion moved for circulating the Bill for eliciting opinion* thereon by 31st March, 1963 on 22nd November, 1963.
4. *Discussion on the circulation motion held on* : 22nd November, 6th December, and 20th December, 1963.
5. *Time allotted* : 2 hrs Extended by one hour on a motion by Shri D.C Sharma. *Time Taken* :
6. Shri N.R. Ghosh moved an amendment that the time for eliciting opinion be extended upto 31st December, 1964.
7. *Members who participated in the discussion* : 17 : (1) Shri Warior : (2) Shri Yashpal Singh ; (3) Dr. Sarojini Mahishi ; (4) Shri Sachindra Chaudhuri : (5) Shri Rameshwarnanda ; (6) Shri H.N. Mukerjee ; (7) Shri Ram Sewak Yadav ; (8) Shri D.N. Tiwari ; (9) Shri Hanumanthiah ; (10) Dr. M.S. Aney ; (11) Shri N.G. Ranga ; (12) Shri A.T. Sharma ; (13) Shri Muthu Gounder ; (14) Shri Raghunath Singh ; (15) Shri Prakash Vir Shastri ; (16) Shri D.C. Sharma ; and (17) Shri Hajarnavis (Minister of State in the Ministry of Home Affairs).
8. Minister opposed the motion. Still it was put to vote.
9. The motion was *negatived*.

9. The Constitution (Amendment) Bill, 1963 (Bill No. 14 of 1963).

1. *Introduced* on 19th April, 1963 by Shri H.V. Kamath.
2. *Amendment of* article 368.

3. *Discussion on the motion for consideration held on* ; 16th Angust and 30th August, 1963.
4. *Time Allotted* : 1 hr. 30 mts., but extended by another hour.
5. *Time taken* : 2 hrs. 2 mts.. split up as : 16th : 1 hr. 38mts. and 30th : 49 mts.
6. *Members who participated in the discussion* : 14 : (1) Shri P.K. Deo ; (2) Shri Sarju Pande ; (3) Shri V.B. Gandhi ; (4) Shri S.M. Banerjee ; (5) Shri C.K. Bhattacharya ; (6) Dr. M.S. Aney ; (7) Shri Simhasan Singh ; (8) Shri Bade ; (9) Shri Radhe Lal Vyas ; (10) Shri Ram Sahaya Pande ; (11) Shri B.K. Das ; (12) Shri Yashpal Singh ; (13) Shri Hem Raj ; and (14) Shri A.K. Sen (Minister of Law).
7. *Motion opposed by the Minister.*
8. *Motion put to the division of the House* under Rule 157. The voting was 34 for and 87 against.
9. The Motion was, therefore, negatived.
10. *The constitution (Amendment) Bill, 1963 (Bill No. 38 of 1963).*
1. *Introduced* on 13th September, 1963 by Shri Era Sezhiyan.
2. *Amendment of* article 171.
3. *Discussion on the motion that the Bill be taken into consideration held on* : 29th February, 1964.
4. *Time allotted* : 1 hour 30 mts.
5. *Time taken* ; 1 hour. 9 mts. (3.15 p.m. to 4.24 p.m.)
6. *Members who participated in the discussion* : (1) Shri Heda; (2) Shri Gauri Shankar Kakkar ; (3) Shri Sivamurthy Swamy ; (4) Shri Subbaraman ; (5) Dr. M.S Aney ; (6) Dr. L.M. Singhvi ; (7) Shri Bade ; (8) Shri Yashpal Singh ; and (9) Shri Bibudhendra Mishra (Deputy Minister in the Ministry of Law.
7. Minister requested the withdrawal of the Bill.
8. Mover stated that as six out of seven members ha supported the Bill, it should be put to vote.

9. *Voting by division* recorded 37 for and 108 against.

10. The motion was, therefore, *negatived.*

11. The Constitution (Amendment) Bill, 1963 (Bill No. 57 of 1963).

1. *Introduced* on 20th December, 1963 by Shri H.V. Kamath.

2. *Amendment of* articles 84 and 173.

3. *Discussion on the motion for consideration held on* : 13th March, 28th March and 10th April, 1964.

4. *Time allotted :* 2 hours.

5. *Time taken* : 1hr. 59.5 mts : 28th March : 1hr. 59.5 mts (4-1.5 p.m. to 6.01 p.m.) On the 13th the Bill could not be discussed for want of quorum and on the 10th April only voting was taken).

6. *Members who participated in the discussion* : 13 : (1) Shri Khadikar ; (2) Shri Brajeshwar Prasad ; (3) Shri K C. Sharma ; (4) Shri A.N. Vidyalankar ; (5) Shri Jaswant Mehta ; (6) Shri Lakshmikanthamma ; (7) Shri Shinkre; (8) Shri Tyagi ; (9) Shri Kapur Singh ; (10) Shri Ram Sevak Yadav ; (11) Shri Bade ; (12) Shri Omkar Lal Berwa ; and (13) Shri C.R. Pattabhiraman.

7. The Minister requested the mover to withdraw the Bill.

8. Shri Kamath, however, insisted on *vote* being taken. The result of the division was 10 for and 98 against.

9. The motion was, therefore, *negatived.*

10. The House adjourned twice for want of quorum, first, when the motion for consideration of the Bill was moved and secondly, when the motion was put to the vote of the House on 28th March, 1964.

12. The Constitution (Amendment) Bill, 1964 (Bill No. 39 of 1964).

1. *Introduced* on 24th April, 1964 by Shri Prakash Vir Shastri.

2. *Amendment of* article 370.

3. *Discussion on the motion for consideration held on* : 11th Sept., 25th Sept., 20th November and 4th December, 1964.

4. *Time allotted* : 2hrs. but as more time was asked for, it was extended by another 2 hours.

5. *Time taken* : 5 hrs. 48 mts., split up as : 11th : 2 hrs. 26 mts. (2.34 p.m. to 5 p.m.) : 20th Nov : 2 hrs. 22 mts: and 4th Dec : 1 hr (2 40 p.m. to 3 40 p.m.) (on 25th Sept : an adjournment motion was moved by Shri Kamath which jointly stood in the names of Dr. L.M. Singhvi, Shri Hem Raj ; Sardar Kapur Singh and himself. It was adopted by 151 votes to 11 against.)

6. *Members who participated in the discussion* : 26 : (1) Shri Inder J. Malhotra ; (2) Shri H.V. Kamath ; (3) Shri Shyam Lal Saraf ; (4) Shri Sarju Pande ; (5) Shri Hanumanthiah : (6) Dr. Ram Manohar Lohia ; (7) Shri Ram Sahai Pendey ; (8) Shri Gopal Dutt Megi ; (9) Shri Bhagwat Jha Azad ; (10) Shri Kashi Ram Gupta ; (11) Shri D.C. Sharma ; (12) Shri Abdul Ghani Dar ; (13) Shri Man Singh P. Patel ; (14) Shri N.C. Chatterjee; (15) Shri Somani ; (16) Shri Narendra Singh Mahida (17) Shri S.S. More ; (18) Shri Hukam Chand Kachhavaiya ; (19) Shri S.M. Banerjee ; (20) Shri Khadikar ; (21) Shri Jagdev Singh Siddhanti ; (22) Shri Tulsidas Jadhav ; (23) Shri C.K. Bhattacharya ; (24) Dr. M.S. Aney ; (25) Dr. Sarojini Mahishi ; and (26) Shri G.L. Nanda (Minister of Home Affairs).

7. Minister opposed the motion.

8. Shri Prakash Vir Shastri appealed to the Minister for reconsideration of his views.

9. The motion was put to the vote of the House. *The House division* was 23 Ayes and 157 Noes.

10. The motion was, therefore, *negatived.*

13. The Constitution (Amendment) Bill, 1964 (Bill No. 59 of 1964).

1. *Introduced* on 11th September, 1964 by Shri Yashpal Singh.

2 *Amendment of* article 75.

3. *Discussion on the motion for consideration held on* : 5th March and 19th March, 1965.

4. *Time allotted* : one hour.

5. *Time taken* : 1 hour 8 mts, split up as : 5th : 17 mts. (4 40 p.m. to 4.57 p.m.) and 19th : 51 mts. (2.31 p.m. to 3.22 p.m).

6. *Members who participated in the discussion* : 7 : (1) Shri D.C. Sharma ; (2) Shri Raghunath Singh ; (3) Shri Narendra Singh Mahida ; (4) Shri Kishen Patnayak ; (5) Shri Shyam Lal Saraf ; (6) Shri Sheo Narain ; and (7) Shri Jaisuklal Hathi (Deputy Minister).

7. The Deputy Minister opposed the motion.

8. The Mover at first wanted a division on the motion but later on requested that permission be given for the withdrawal of the motion.

9. Leave being given, the motion was *withdrawn.*

14. The Constitution (Amendment) Bill, 1964 (Bill No. 81 of 1964).

1. *Introduced* on 18th December, 1964 by Shri Prakash Vir Shastri.

2. *Amendment of* articles 1, 2, 3, 4 and consequential and incidental alterations or repeals of other articles.

3. *Discussion on the motion that the Bill be taken into consideration held on* : 3rd Sept ; 17th Sept ; and 5th Nov., 1965.

4. *Time allotted* : 2 hours but extended by another 2 hours.

5. *Time taken* : 1 hr. 41 mts., split up as : 3rd ; 5 mts. ; 17th : 2 hrs. (1.30 p.m. to 3.30 p.m.) ; and 5th : 1 hr. 41 mts. (2.31 p.m. to 4.12 p m.)

6. *Members who participated in the motion* : 19 : (1) Shri C. K. Bhattacharya : (2) Shri Bade ; (3) Smt. Tarkeshwari Sinha ; (4) Shri Gauri Shankar Kakkar ; (5) Shri Shree Narayan Das ; (6) Shri D.C. Sharma ; (7) Dr. R.M. Lohia ; (8) Shri Yashpal Singh ; (9) Shri Simhasan Singh ; (10) Shri Kapur Singh ; (11) Shri H C. Mathur ; (12) Shri Kashi Ram Gupta ; (13) Shri G.N. Dixit : (14) Shri U.M. Trivedi ; (15) Dr. Sarojini Mahishi ; (16) Shri Shyam Lal Saraf ; (17) Dr. L.M. Singhvi ; (18) Shri Vasudevan Nair ; and (19) Shri Jaganatha Rao (Deputy Minister in the Ministry of Law).

7 Shri Vishwa Nath Pandey had an amendment to the Bill but did not move it. Dr M.S. Aney also wished to move his amendment for the circulation of the Bill for eliciting opinion thereon but that was not acceptable to the Deputy Minister.

8. Minister opposed the Bill and wanted its withdrawal.

9. Mover asked for leave for the withdrawal of the Bill. Leave being given the Bill was *withdrawn*

15. The Constitution (Amendment) Bill, 1965 (Bill No. 74 of 1965)

1. *Introduced* on 19th November, 1965 by Shri H.V. Kamath.

2. *Amendment of* the First Schedule.

3. *Discussion on the motion that the Bill be taken into consideration held on* : 3rd December, 1965.

4. *Time allotted* : 1 hour but extended by another hour.

5. *Time taken* : 1 hr. 58.5 mts. (3.05 p.m. to 4.59 p.m.).

6. *Members who participated in the motion* : 15 : (1) Shri P.K. Deo ; (2) Shri Niranjan Pal ; (3) Shri H.N. Mukerjee ; (4) Smt. Indira Gandhi (Minister of Information and Broadcasting) ; (5) Shri C K. Bhattacharya ; (6) Shri Bade ; (7) Smt. Savitri Nigam ; (8) Shri N.C. Chatterjee ; (9) Shri J.P. Jyotishi ; (10) Shri Madhu Limaye ; (11) Shri Hanumanthiah ; (12) Dr. M S. Aney ; (13) Shri Raghunath Singh ; (14) Shri

Hem Raj ; and (15) Shri Jaisukhlal Hathi (Minister of State in the Ministry of Home Affairs and the Minister of Defence Supplies in the Ministry of Defence).

7. Shri G.N. Dixit raised a point of order, quoting articles 2, 3 and 4 that inasmuch as there was no recommendation from the President in support of Shri Kamath's amendment, the Bill was unconstitutional. The Speaker, however, ruled that there was no point of order since both the Schedules and article 4 clearly made a difference between the States and the Union territories and that the Bill was in regard to Union Territories.

8. The Minister opposed the motion.

9. Member requested leave for withdrawal of the Bill. Leave being given, the motion was *withdrawn.*

16. *The Constitution (Amendment) Bill, 1966* (Bill No. 9 of 1966)

1. *Introduced* on 17th February, 1966 by Shri Madhu Limaye.

2. *Amendment of* articles 22 and 32 and omission of article 319.

3. *Discussion on the motion held on* : 4th and 18th March, 1966.

4. *Time allotted* : 2 hours.

5. *Time taken* : 2 hrs., 6 mts. split up as, 4th : 1 hr. 33 mts. (3.26 p.m. to 4.59 p.m.) and 18th : 36 mts. (3.30 p.m. to 4.06 p.m.).

6. *Members who participated in the discussion on the motion* : 9 : (1) Shri N.C. Chatterjee ; (2) Shri N.G. Ranga ; (3) Shri P.R. Chakravarthy ; (4) D.C. Sharma ; (5) Dr. Ranen Sen ; (6) Shri Sheo Narain ; (7) Dr. L.M. Singhvi ; (8) Shri Hukam Chand Kachhavaya ; and (9) Shri Jaisukhlal Hathi (Minister of State in Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence).

7. Minister of State opposed the motion.

8. The motion was put to vote and the House division was 15 Ayes and 67 Noes.

9. The motion was, therefore, *negatived.*

17. *The Constituion (Amendment) Bill, 1966* (Bill No. 86 of 1966)

1. *Introduced* on 17th February, 1966 by Shri Prakash Vir Shastri.

2. *Omission of* articles 152, 352 (4), 361 (5), 367 (4), and provisos to articles 368 and 370.

3. *Discussion on the consideration motion held on* : 18th March and 1st April, 1966.

4. *Time allotted* : 2 hrs. but extended by on hour and 38 mts. (*i e.*) 4 hrs. 38 mts.

5. *Time taken* : 3 hrs. 41 mts., split up as, 18th : March 1 hr. 24 mts. (4.36 p.m. to 6 p.m.) and 1st April : 2 hrs. 17 mts. (3.31 p.m. to 5.48 p.m.).

6. *Amendment moved* by Shri Vishwa Nath Pandey for circulating the Bill for eliciting opinion thereon by 31st August, 1966. (The motion was, however, withdrawn).

7. *Members who participated in the motion* : 20 : (1) Shri N.C. Chatterjee ; (2) Shri Inder J. Malhotra ; (3) Dr. L.M. Singhvi ; (4) Shri Kapur Singh ; (5) Shri Bhagwat Jha Azad ; (6) Shri U.M. Trivedi; (7) Shri H.N. Mukerjee ; (8) Shri Vishwa Nath Pandey ; (9) Shri Narendra Singh Mahida ; (10) Shri Samnani ; (11) Shri D.C. Sharma ; (12) Shri J.B. Kirpalani ; (13) Shri Khadikar ; (14) Shri Tyagi ; (15) Shri Kashi Ram Gupta ; (16) Shri S. Kandappan ; (17) Shri Shyam Lal Saraf ; (18) Shri Bishanchandra Seth ; (19) Shri Gopal Dutt Mengi ; and (20) Shri Jaisukhlal Hathi (Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence).

8. The Minister of State opposed the motion.

9. The Mover asked for leave to withdraw the Bill. Leave being given the motion was *withdrawn.*

18. *The Constitution (Amendment) Bill, 1966.* (Bill No. 18 of 1966)

1. *Introduced* on 18th March, 1966 by Shri H.V. Kamath.
2. *Amendment of* articles 75 and 164.
3. *Discussion on the consideration motion held on* : 1st, 15th, 29th April and 13th May, 1966.
4. *Time allotted* : 2 hrs. Extended by one hour on a motion moved by Shri Khadikar on 15th April. Further extended by half an hour on a motion moved by Shri Madhu Limaye. Still further extended by the Chairman by another half an hour. Total : 4 hours.
5. *Time taken* : 4 hrs. 13 mts., split up as, 1st : 2 mts : 15th : 1 hr. 48.5 mts. (3.53.5 p.m. to 5 p.m. and 5.18 p.m. to 6 p.m.) ; 29th : 2 hrs. 5 mts. (3 38 p.m. to 5.43 p.m.) ; and 13th : 18 mts. (2.33 p.m. to 2.51 p.m.).
6. *Amendments moved* by Shri Yashpal Singh and Shri Vishwa Nath Pandey respectively for circulating the Bill for eliciting opinion by 30th September and 30th October, 1966 respectively. The former was put to vote and the House division was 16 Ayes and 107 Noes and as such it was negatived. The latter withdrew his motion subsequently.
7. *Members who participated in discussion* : 32 : (1) Shri H.C. Mathur ; (2) Shri H.N. Mukerjee ; (3) Shri D.C. Sharma ; (4) Shri Ram Sevak Yadav ; (5) Shri Khadikar ; (6) Shri G.K. Das ; (7) Shri N.C. Chatterjee ; (8) Shri Raghunath Singh ; (9) Shri Shinkre ; (10) Shri Shyam Lal araf ; (11) Shri Prakash Vir Shastri ; (12) Shri Man Singh P. Patel ; (13) Shri Yashpal Singh ; (14) Shri Sheo Narain ; (15) Shri P.R. Chakravarthi ; (16) Shri N. Dandekar ; (17) Shri C.K. Bhattacharya ; (18) Shri Madhu Limaye ; (19) Shri Shree Narayan Das ; (20) Shri Bade ; (21) Shri R.S. Tiwari ; (22) Shri Kashi Ram Gupta ; (23) Shri Inder J. Malhotra ; (24) Shri Simhasan Singh ; (25) Shri J.B. Kripalani ; (26) Shri Bishwanath Roy ; (27) Shri

Balmiki ; (28) Shri Sarjoo Pandey ; (29) Shri J.P. Jyotishi ; (30) Shri P. Venkatasubbiah ; (31) Shri Raja Ram ; (32) Shri Jaisukhlal Hathi (Minister of State in the Ministry of Home Affairs and Minister of Defence Supplies in the Ministry of Defence).

8. The Minister of State opposed the Bill.

9. The motion was, however put to the *vote of* the House. The House division recorded 20 Ayes and 96 Noes.

10. The motion was *negatived.*

19. *The Constitution (Amendment) Bill, 1965.* (Bill No. 87 of 1965)

1. *Introduced* on 17th February, 1966 by Shri Krishna Deo Tripathi.

2. *Amendment of* article 1 and 393.

3. *Discussion on the consideration held on* : 13th May and 29th July 1966.

4. *Time allotted* : 1 hour.

5. *Time taken* : 1 hr. 24.5 mts., split up as, 13th : 39 mts. (4.21 p.m. to 5 p.m.) and 29th : 45.5 mts. (2.36·5 p.m. to 3.22 p.m.).

6. *Members who participated in the motion* : 8 : (1) Shri S. Kandappan ; (2) Shri Shree Narayan Das ; (3) Shri D.C. Sharma ; (4) Dr. Ranen Sen ; (5) Shri Madhu Limaye ; (6) Shri Bade ; (7) Shri Priya Gupta ; and (8) Shri Vidya Charan Shukla (Deputy Minister in the Ministry of Home Affairs).

7. The Deputy Minister opposed the Bill and requested its withdrawal.

8. The Mover asked for leave to withdraw the Bill. Leave being given the Bill was *withdrawn.*

20. *The Constitution (Amendment) Bill, 1964.* (Bill No. 29 of 1964).

1. *Introduced* on 10th April, 1964 by Dr. L.M. Singhvi.

2. *Amendment of* the Seventh Schedule.

3. Discussion on the motion that the Bill be circulated for eliciting public opinion by 14th November, 1966 held on 12th August, 1966.

4. *Time allotted* : 1 hour.

5. *Time taken* : 1 hr. 42 mts. (3.48 p.m. to 5.30 p.m.).

6. *Amendment moved* by Shri Vishwa Nath Pandey that the date 14th November be substituted by the date 31st October, 1966.

7. *Members who participated in the motion* : 14 : (1) Shri M.C. Chagla (Education Minister) ; (2) Shri J.P. Jyotishi ; (3) Shri D.C. Sharma ; (4) Shri N.C. Chatterjee ; (5) Shri Sheo Narain ; (6) Shri Viswa Nath Pandey ; (7) Shri Yashpal Singh ; (8) Shri Gauri Shankar Kakkar ; (9) Shri Narendra Singh Mahida ; (10) Shri Prakash Vir Shastri ; (11) Shri Wariar ; (12) Shri N.G. Ranga ; (13) Dr. M.S. Aney ; and (14) Shri Balmiki.

8. The Education Minister accepted the motion for circulation.

9. Shri Vishwa Nath Pandey withdrew his amendment.

10. The motion for circulation of the Bill was put to vote and that was accepted.

21. *The Constitution (Amendment) Bill, 1966.* (Bill No. 11 of 1966).

1. *Introduced* on 17th February, 1966 by Shri H.V. Kamath.

2. *Amendment of* article 352.

3. *Discussion on the consideration motion held on* : 12th and 26th August, 1966.

4. *Time allotted* : 2 hours.

5. *Time taken* : 2 hrs. 33 mts., split up as, 12th : 7 mts. (5.30 p.m. to 5.37 p.m.) ; and 26th : 2hrs. 26 mts. (2.35 p.m. to 5.01 p.m.).

6. *Amendment moved* by Shri Vishwa Nath Pandey for circulating the Bill for eliciting opinion by 30th November, 1966.

(He, however withdrew his amendment later on)

7. *Members who participated in the discussion on the motion* : 14 : (1) Shri Vishwa Nath Pandey ; (2) Shri S.M. Banerjee ; (3) Shri R.S. Pandey ; (4) Shri Shree Narayan Das ; (5) Dr. Ranen Sen ; (6) Shri Nambiar ; (7) Shri Kapur Singh ; (8) Shri Raghunath Singh ; (9) Dr. R.M. Lohia ; (10) Shri N.C. Chatterjee ; (11) Shri Shinkre ; (12) Shri Yashpal Singh ; (13) Shri S. Kandappan and (14) Shri Vidya Charan Shukla (Deputy Minister in the Ministry of Home Affairs).

8. The Deputy Minister opposed the motion and requested the Mover to withdraw the Bill.

9. The motion was, however, put to vote. The House division recorded 22 Ayes and 72 Noes.

10. The motion was, therefore, *negatived.*

22. *The Constitution (Amendment) Bill, 1962.* (Bill No. 68 of 1962)

1. *Introduced* on 22nd June 1962 by Shri U.M. Trivedi.

2. *Amendment of* the Eighth Schedule.

3. *Discussion on the consideration motion held on* : 26th August and 4th November, 1966.

4. *Time allotted* : 1 hour.

5. *Time taken* : 58 mts., split up as, 26th : 1 mt. ; 4th : 57 mts. (3.35 p.m. to 4.32 p.m.).

6. *Members who participated in the discussion* : 12 : (1) Shri Raghunath Singh ; (2) Shri H.N. Mukerjee ; (3) Shri Shree Narayan Das ; (4) Dr. L.M. Singhvi ; (5) Shri Narendra Singh Mahida ; (6) Shri Himatsingka ; (7) Shri N.C. Chatterjee ; (8) Shri D.C. Sharma ; (9) Dr. M.S. Aney ; (10) Shri S. Kandappan ; (11) Shri Madhu Limaye ; (12) Shri Vidya Charan Shukla (Deputy Minister in the Ministry of Home Affairs).

7. The Deputy Minister announced that the Government had decided to introduce a Bill on the above lines. He, therefore, requested the Mover to withdraw the Bill.

8. Consequent on the assurance given by the Deputy Minister Shri Trivedi begged leave to withdraw the Bill.

9. Leave being given, the Bill was *withdrawn.*

23. *The Constitution (Amendment) Bill, 1965.* (Bill No. 34 of 1965).

1. *Introduced* on 19th August, 1965 by Shri Vishwa Nath Pandey.

2. *Amendment of* article 314.

3. *Discussion on the consideration motion held on* : 4th November, 1966.

4. *Time allotted* : 1 hour.

5. *Time taken* : 1 hr. 2 mts. (4.32 p.m. to 5.34 p.m.).

6. *Members who participated in the discussion on the motion* : 9 : (1) Shri Narendra Singh Mahida ; (2) Shri Shree Narayan Das ; (3) Shri Sheo Narain ; (4) Shri D.C. Sharma : (5) Shri J.P. Jyotishi ; (6) Shri Bade ; (7) Shri Hanumanthaiya ; (8) Shri Himatsingka ; and (9) Shri Vidya Charan Shukla (Deputy Minister in the Ministry of Home Affairs).

7. The Deputy Minister requested the mover to withdraw the Bill.

8. Shri Vishwa Nath Pandey begged leave to withdraw the Bill. Leave being given, the Bill was *withdrawn.*

24. *The Constitution (Amendment) Bill 1967.* (Bill No. 7 of 1967)

1. *Introduced* on 23rd March, 1967 by Shri Era Sezhiyan.

2. *Amendment of* articles 15 and 16.

3. *Discussion on the motion for consideration held on* : 7th April and 26th May, 1967.

4. *Time allowed* : 1 hour. Extended by another hour.

5. *Time taken* : 2hrs. 44 mts., split up as, 7th : 1 hr. 56.5 mts. (4.35. 5 p.m. to 6.32 p.m.) and 26th : 47.5 mts. (3.11 p.m. to 3.58.5 p.m.

6. *Members who participated in the motion for consideration* : 14, namely, (1) Shri Manoharan ; (2) Shri D.N. Tiwari ; (3) Shri Bedabrata Barua ; 4) Dr. M. Santosham ; (5) Shri V.N. Jadhao ; (6) Shri Kameshwar Singh ; (7) Shri S. Kandappan ; (8) Shri C.K. Bhattacharya ; (9) Shri Sarjoo Pandey ; (10) Shri Kamble ; (11) Shri Ram Sewak Yadav ; (12) Shri R.D. Bhandare ; (13) Shri Jagannath Rao Joshi ; and (14) Shri Vidya Charan Shukla (Minister of State in the Ministry of Home Affairs).

7. The Minister wanted the withdrawal of the Bill.

8. The Mover, however, wanted that the Bill be put before the House.

9. The mechanical device did not work. The Deputy Speaker suggested that voting be taken either by members standing up in their places or through the slips. As they were not acceptable to the Members, the division was taken by members going to the Lobbies.

The result of the division was 51 Ayes and 70 Noes.

10. The motion was, therefore, *negatived.*

25. *The Constitution (Amendment) Bill, 1967.* (Bill No. 15 of 1967).

1. *Introduced* on 23rd March, 1967 by Shri Madhu Limaye.

2. *Amendment of* articles 37, 45 and 47.

3. The Deputy Speaker at the outset stated that as the President had not recommended the consideration of the Bill under article 117(3) but as the Mover had given a notice to move for circulation of the Bill for eliciting opinion thereon he might move that motion.

However, a discussion took place at the initiative of Shri Madhu Limaye himself as to why a consideration motion could not be moved when no objection was raised regarding the need for the recommendation of the President for the Bill at introduction stage.

In the discussion on the above, besides Shri Madhu Limaye, Shri Randhir Singh, Shri Sezhiyan, Shri P. Ramamurthi, Shri George Fernandez, Shri S.M. Joshi, Shri Kanwar Lal Gupta, Shri S.M. Banerjee and the Minister of State in the Ministry of Education (Shri Bhagwat Jha Azad) participated. The Deputy Speaker ruled that only the circulation motion was permissible.

4. *Motion for circulation of the Bill discussed on* : 26th May and 9th June, 1967.

5. *Time allotted* : 2 hours.

6. *Time taken* : 2 hrs. 18 mts., split up as, 26th : 1hr. 36 mts. (3.59 p.m. to 5. 35 p.m.) and 9th : 42 mts. (3.45 p.m. to 4.27 p.m.)

7. *Members who participated in the circulation motion* : 7 : namely, (1) Shri S.M. Banerjee ; (2) Shri S. Kundu ; (3) Shri Randhir Singh ; (4) Shri Narendra Singh Mahida ; (5) Shri J.B. Kripalani ; (6) Dr. Ram Manohar Lohia ; and (7) Shri Bhagwat Jha Azad (Minister of State in the Ministry of Education).

8. The Minister opposed the Bill.

9. The Motion, however, was put to the division of the House. *The House division recorded 59 Ayes and 85 Noes.*

10. The motion was, therefore, *negatived.*

26. *The Constitution (Amendment) Bill 1967.* (Bill No. 10 of 1967).

1. *Introduced on* 7th April, 1967 by Shri Nath Pai.

2. *Amendment of* article 368.

3. *Motion moved for reference of the Bill to a Select Committee consisting of 15 members on 9th June, 1967.*

4. *Members of the Select Committee to which the motion was to be referred to,* 15, namely : (1) Shri R.K. Khadilkar ; (2) Shri R.D. Bhandare ; (3) Shri N.C. Chatterjee ; (4) Shri Kanwar Lal Gupta ; (5) Shri S.M. Joshi ; (6) Shri Krishnan Manoharan ; (7) Shri P. Govinda Menon ;

(8) Dr. G.S. Melkote ; (9) Shri Bakar Ali Mirza ; (10) Shri Piloo Mody ; (11) Shri H.N. Mukerjee ; (12) Shri Ram Kishan ; (13) Shri J. Rameshwar Rao ; (15) Shri R. Umakant and (15) Shri Nath Pai.

5. The Select Committee was to report by the first day of the next session.

6. *Amendment moved by* the Law Minister (Shri P. Govinda Menon) that the Bill be referred to a Joint Committee consisting of 45 members : 30 from the Lok Sabha and 15 from the Rajya Sabha. The Members of the Lok Sabha were : (1) Shri R.K. Khadilkar; (2) Shri R.S. Arumugam ; (3) Shri N.C. Chatterjee ; (4) Shri Kanwar Lal Gupta ; (5) Shri Ram Kishen Gupta ; (6) Shri K. Hanumanthaiya ; (7) Shri S.M. Joshi ; (8) Shri Kameshwar Singh ; (9) Shri Krishnan Manoharan ; (10) Shri D.K. Kunte ; (11) Shri Kameshwar Rao ; (12) Shri V. Viswanatha Menon ; (13) Shri Mohamad Yusuf ; (14) Shri Jugal Mandal ; (15) Shri H.N. Mukerjee ; (16) Shri Nath Pai ; (17) Shri P. Parthasarathy ; (18) Shri Deorao S. Patel ; (19) Shri Khagapathi Pradhani ; (20) Shri K. Narayana Rao ; (21) Shri Mohammad Yunus Saleem ; (22) Shri A.N. Mulla ; (23) Shri Swapan Sen ; (24) Shri Prakash Vir Shastri ; (25) Shri Sunder Lal ; (26) Shri V.Y. Tamaskar ; (27) Shri Digvijaya Narain Singh ; (28) Shri Sant Bax Singh ; (29) Shri Tennenti Viswanathan ; and (30) Shri P. Govinda Menon, with instructions to report by the first week of the next session.

7. *Discussion on the motion for reference to Select/Joint Committee held on* : 9th and 23rd June ; 7th and 21st July and 4th August, 1967, (i.e.) 5 days.

8. *Time allotted* : Nine hours in all.

9. *Time taken* : 9 hrs. 16 mts., split up as, 9th : 1 hr. 38 mts. (4.27 p.m. to 6.05 p.m.) ; 23rd : 1 hr. 25 mts. (4.05 p.m. to 5.30 p.m.) ; 7th 2 hrs. ; 16 mts. (3.14 p.m. to 5.30 p.m) ; 21st : 2 hrs. 5 mts. (3.55 p.m. to 6 p.m.) ; and 4th : 1 hr. 52 mts. (4.13 p.m. to 6.05 p.m.).

10. Shri Kanwar Lal Gupta declined to serve on the Committee. He was, therefore, substituted by Shri S.N. Dwivedy.

11. *Members who participated in the motion for reference to the Joint Committee* : 30, namely, (1) Shri D.C. Sharma ; (2) Shri P.K. Deo ; (3) Shri J B. Kripalani ; (4) Shri N.C. Chatterjee ; (5) Shri R.D. Bhandare ; (6) Shri Piloo Mody ; (7) Shri V. Krishnamurthy ; (8) Shri K. Narayan Rao ; (9) Shri Madhu Limaye ; (10) Shri Bedabrata Barua ; (11) Shri A.N. Mulla ; (12) Shri A.B. Vajpayee ; (13) Shri Tennenti Viswanathan ; (14) Shri Randhir Singh ; (15) Shri Sheo Narain ; (16) Shri Vasudevan Nair ; (17) Shri Sonavane ; (18) Shri P. Govinda Menon (Minister of Law) ; (19) Shri Ram Manohar Lohia ; (20) Shri N.K.P. Salve ; (21) Shri S.A. Dange ; (22) Shri S. Kundu ; (23) Shri Ganesh Ghosh ; (24) Shri P. Ramamurthy ; (25) Shri Kanwar Lal Gupta ; (26) Chaudhury Nitiraj Singh ; (27) Shri K.M. Kaushik ; (28) Shri Manabendra Shah ; (29) Shri Krishan Kumar Chatterjee ; and (30) Shri D.R. Chavan (Deputy Minister in the Ministry of Law).

12. *Point of Order raised* by Shri Lobo Prabhu that the Bill was ultra vires of the House ; that it was against the Constitution ; and that it was against the interpretation of the Constitution by the Supreme Court in the Golaknath's case.

In the discussion that followed Shri Madhu Limaye, Shri N.C. Chatterjee, Shri Nath Pai, Shri S.M. Banerjee, Shri B.D. Bhandare and Shri P. Govinda Menon participated.

The Deputy Minister ultimately ruled that the Point of Order had no basis.

13. The Law Minister who intervened and the Deputy Minister in the Ministry of Law who replied to the motion on behalf of the Government while lending support to the Bill preferred that the Bill be referred to a Joint Committee instead of to a Select Committee consisting of the

Members of he Lok Sabha alone for better consideration of the Bill. That was agreed to by Shri Nath Pai and others.

14. The motion for reference of the Bill to a Joint Committee was put to vote. *The House division recorded, 67 Ayes and 35 Noes.*

15. *The motion was, therefore, adopted.*

16. This is perhaps the only private members' Constitution Amendment Bill till date that has been discussed for such a long period and also the only Bill that had been referred to a Joint Committee of the two Houses.

At the Joint Committee Stage

1. The message from the Rajya Sabha that it had concurred in, in the motion for reference of the Bill was conveyed to the Lok Sabha on 21st August, 1967.

2. The Joint Committee started discussing the Bill on 7th September, 1967. The Joint Committee held fifteen sittings in all, namely, on 7th September ; 23rd October ; 24th, 25th, 26th, and 27th October ; 18th and 25th November, 1967 ; 27th and 29th January, 1968 ; 11th May ; 10th July ; 11th, 12th and 13th July, 1968.

3. *Time taken* : 7th Sept., : 1 hr. (i.e.) 3 p.m. to 4 p.m. ; 23rd Oct. : 3 hrs. 15 mts. (i.e.) 10 a.m. to 1.15 p.m. ; 24th Oct. : 3 hrs. 30 mts. (i.e.) 10 a.m to 1.30 p.m. ; 25th Oct. : 2 hrs. 10 mts. (i.e.) 11 a.m. to 1.10 p.m. ; 26th Oct. : 2 hrs. 20 mts. (i.e.) 11 a.m. to 1.20 p.m. : 27th Oct. ; 3 hrs. 15 mts. (i.e.) 11 a.m. to 2.15 p.m. : 18th Nov. ; 3 hrs. 5 mts. (i.e.) 10 a.m. to 1.05 p.m. : 25th Nov. ; 4 hrs. 45 mts. (i.e.) 10 a.m. to 1 p.m. and 3 p.m. to 4.45 p.m. : 27th Jan. ; 2 hrs. 15 mts. (i.e.) 11 a.m. to 1.15 p.m. : 29th Jan. : 2 hrs. 40 mts. (i.e.) 10.30 a.m. : to 1.10 p.m. : 11th May : 30 mts. (i.e.) 10.15 a m. to 10.45 a.m. : 10th July : 30 mts. (i.e.) 5 p.m. to 5.30 p.m. : 11th July : 5 hrs. 35 mts. (i.e.) 10 a.m. to 1.05 p.m. and 3.10 p.m. to 6 p.m. : 12th July : 1 hr. 5 mts. (i.e.) 11 a.m. to 12.05 p.m. ; and 13th July : 1 hr. 30 mts. (i.e.) 11 a.m. to 12.30 p.m.

4. Members who tendered witness before the Committee : (1) Shri K. Santhanam ; (2) Shri N.A. Palkhivala ; (3) Representa-

tives of the Indian Society of International Law, New Delhi ; (4) Shri R.S. Gae, Secretary, Department of Legal Affairs, Ministry of Law, Government of India ; (5) Shri H.M. Seervai ; (6) Representatives of the Indian Chamber of Commerce, Calcutta ; (7) Shri S. Mohan Kumaramangalam, ex-Advocate-General of Madras ; (8) Shri Purushottam Tricamdas ; (9) Shri G.S. Gupta, Member of the Constituent Assembly and (10) Shri M.C. Setalvad.

5. The Report was adopted on 13th July, 1968.

6. There were four minutes of dissent, namely, (1) Shri K. Chandrasekharan ; (2) Shri N.R. Muniswamy ; (3) Shri Jairamdas Daulatram and (4) Jointly by Shri S.M. Joshi and Kameshwar Singh.

Discussion on the Joint Committee Report in the Lok Sabha

1. *Discussions on the Report of the Joint Committee were held on* 15th, and 29th November and 13th December, 1968.

2. *Time allotted* : 4 hrs. 30 mts. as a special case by the Business Advisory Committee although the maximum that could be allotted to a private member's bill was 4 hrs. The time was, however, extended by the House.

3. *Time taken* : 15th : 12 mts. (5.20 p.m. to 5.32 p.m.) ; 29th Nov. : 2 hrs. 32 mts. (3.05 p.m. to 5.37 p.m.) and 13th Dec : 2hrs. 30 mts. (3 p.m. to 5.30 p.m.).

4. *Members who participated in the discussion* : 9 : (1) Shri N.C. Chatterji ; (2) Smt. Sharda Mukerjee ; (3) Shri Sriraj Meghrajji Dhrangadhra ; (4) Shri Frank Anthony ; (5) Shri J.B. Kripalani ; (6) R.D. Bhandare : (7) Shri Sri Chand Goyal ; (8) Shri Vikram Chand Mahajan ; and (9) Shri H.N. Mukerjee.

Two significant happenings during the course of the debate on the Bill were :

1. Shri Lobo Prabhu moved that the Attorney-General of India be summoned to advise the House on the Constitutional validity of the Bill. The motion, however, was negatived after some discussion.

2. Shri Surendra Nath Dwivedi raised an issue on the propriety of certain remarks made by the Chief Justice of the

Supreme Court of India on Shri Nath Pai's Bill in one of the functions of the Institute of Constitutional and Parliamentary Studies. After some discussion the House agreed to drop the matter.

Further discussion on Shri Nath Pai's Bill did not take place because of the assurance given by Shri P. Govinda Menon, the Union Law Minister, that he would be bringing in an official Bill on the subject. The official bill is yet to be introduced and discussed.

27. *The Constitution (Amendment) Bill, 1967.* (Bill No. 33 of 1967).

1. *Introduced on* 7th April, 1967 by H.H. Maharaja Dr. Karni Singhji of Bikaner.
2. *Amendment of* the Eighth Schedule.
3. *Motion moved for reference of the Bill to a Joint Committee of the Houses consisting of 18 members on 1st December, 1967.*
4. *Members of the Joint Committee from the Lok Sabha* ; 12, namely, (1) Shri Onkar Lal Bohra ; (2) Shri Surendranath Dwivedi ; (3) Shri Lalit Sen ; (4) Shri H.N. Mukerjee ; (5) Shri Amrit Nahata ; (6) Shri K. Anandan Nambiar ; (7) Shri Nath Pai ; (8) Shri Era Sezhiyan ; (9) Shri Vidya Charan Shukla : (10) Shri N.K. Somani ; (11) Shri Surendra Kumar Tapuriah ; and (12) Dr. Karni Singh.
5. The Joint Committee was to report by the first day of the next session.
6. *Discussion on the motion for reference to the Joint Committee* held on : 1st December, 1967 and 16th February, 1968.
7. *Time allotted* : 1 hour. Extended by one hour and 30 mts.
8. *Time taken* : 2 hrs. 31 mts., split up as, 1st Dec : 1 mt. 16th Feb. : 2 hrs. 30 mts. (3.5 p.m. to 5.35 p.m.).

9. *Members who participated* in the motion for reference of the Bill to the Joint Committee : 18, namely, (1) Shri Amrit Nahata ; (2) Dr. Govind Das ; (3) Shri Prakash Vir Shastri ; (4) Shri Tenneti Viswanathan ; (5) Shri Sezhiyan : (6) Shri Bhola Nath ; (7) Shri Meetha Lal Meena ; (8) Shri P.L. Barupal ; (9) Shri O.P. Tyagi ; (10) Dr. Maitreyee Basu ; (11) Smt. Nirlep Kaur ; (12) Shri Randhir Singh ; (13) Shri Sequeira ; (14) Shri Nambiar ; (15) Shri Dineswar Kalia ; (16) Shri Kandappan ; (17) Shri Onkar Lal Bohra ; and (18) The Minister of Home Affairs (Shri Y.B. Chavan).

10. The Minister opposed the motion.

11. The Mover, however, wanted the motion to be put before the House.

12. The House division recorded 38 Ayes and 92 Noes and as such the motion was *negatived.*

28. *The Constitution (Amendment) Bill, 1967* (Bill No, 116 of 1967)

1. *Introduced on* 4th August, 1967 by Shri Prakash Vir Shastri.

2. *Amendment of* article 85.

3. *Discussion on the motion for consideration held on* : 16th February and 1st March, 1968.

4. *Time allotted* : One hour but extended by another hour on demand by members of the House.

5. *Time taken* : 2 hrs. 16 mts., split up as, 16th Feb. : 1 mt. and 1st March, 1968 : 2 hrs. 15 mts. (3.10 p.m. to 5.15 p.m.).

6. *Members who participated in the motion for consideration* : 13, namely, (1) Shri K. Hanumanthaiya ; (2) Shri J.M. Imam ; (3) Chaudhuri Randhir Singh ; (4) Shri Jagannatharao Joshi ; (5) Shri P. Venkatasubbaiah ; (6) Shri S. Kandappan : (7) Smt. Sharda Mukerjee ; (8) Dr. Ranen Sen ; (9) Shri Tulsidas Jadhav ; (10) Shri V. Viswanatha Menon (11) Shri J.H. Patel ; (12) Shri Nath Pai ; and (13)

Dr. Ram Subhag Singh (Minister of Parliamentary Affairs and Communications).

7. The Minister wanted the Mover to withdraw the Bill in view of article 85(1).
8. The Bill was *withdrawn* by leave of the House.

29. *The Constitution (Amendment) Bill, 1967.* (Bill No. 129 of 1967).

1. *Introduced on* 16th November, 1967 by Shri P.K. Deo.
2. *Substitution of article 156 and insertion of new article 159A.*
3. *Discussion on the motion for consideration held on* : 1st March and 14th March, 1968.
4. *Time allotted* :
5. *Time taken* : 2 hours, split up as, 1st March : 14 mts. (5.15 p.m. to 5.29 p.m.) and 14th March 1 hr. 46 mts. (4.14 p.m. to 6 p.m).
6. *Members who participated in the motion for consideration* : 13, namely, (1) Shri H.N. Mukerjee : (2) Chaudhuri Randhir Singh ; (3) Shri S. Kandappan ; (4) Shri Bhola Nath Master ; (5) Shri Hardayal Devgun ; (6) Shri Diwan Chand Sharma ; (7) Shri Surendra Kumar Tapuriah ; (8) Shri Rabi Ray ; (9) Shri K. Narayana Rao ; (10) Shri V. Viswanatha Menon ; (11) Shri Onkar Lal Bohra ; (12) Shri Samarendra Kundu ; and (13) Shri Y.B. Chavan.
7. The Minister wanted the mover to withdraw the Bill.
8. The Bill was *withdrawn* by leave of the House.

30. *The Constitution (Amendment) Bill, 1968* (Bill No. 6 of 1968)

1. *Introduced on* 16th February, 1968 by Shri Madhu Limaye
2. *Amendment of* article 74 and 163.
3. *Discussion on the motion for consideration held on* : 10th May and 26th July, 1968.
3. *Time allotted* : 1 hour and 30 mts. Extended by another hour.

5. *Time taken* : 2 hrs. 30 mts., split up as : 10th May : 21 mts. (6 p.m. to 6.21 p.m.) and 26th July : 2 hrs. 9 mts. (3.05 p.m. to 5.14 p.m.).

6. *Members who participated in the motion of consideration* : 17 namely : (1) Shri Bhandare ; (2) Shri Lobo Prabhu ; (3) Shri Rane ; (4) Shri Tennenti Viswanathan (5) Shri Randhir Singh ; (6) Shri M. Krishna ; (7) Shri Asghar Husain ; (8) Shri Om Prakash Tyagi ; (9) Shri Prem Chand Verma ; (10) Shri Rajaram ; (11) Shri Onkarlal Bohra ; (12) Shri Sarjoo Pandey ; (13) Shri Tulsidas Jadhav ; (14) Shri Abdul Ghani Dhar ; (15) Shri A. Sreedharan ; (16) Shri Era Sezhiyan ; and (17) Shri Govinda Menon (The Minister of Law).

7. *The Minister wanted the withdrawal of the Bill as the* Committee on Defections was considering the question.

8. *The Bill was withdrawn* by leave of the House.

31. *The Constitution (Amendment) Bill, 1968* (Bill No. 16 of 1967)

1. *Introduced on* 23rd March, 1967 by Shri Era Sezhiyan.

2. *Amendment of* article 120.

3. *Discussion on the motion for consideration held on* : 26th July and 9th August, 1968.

4. *Time allotted* : 1 hr. 30 mts. Extended by 30 minutes.

5. *Time taken* : 2 hrs. 18 mts., split up as : 26th July : 18 mts. (5.14 p.m. to 5 32 p.m.) and 9th August : 2 hrs. (3 p.m. to 5 p.m.).

6. *Members who participated in the motion for consideration* : 13 namely : (1) Shri Sheo Narain ; (2) Shri Jagannatha Rao Joshi ; (3) Dr. Govinda Das ; (4) Shri S. Kandappan ; (5) Shri Onkarlal Bohra ; (6) Shri H.N. Mukerjee ; (7) Shri Chintamani Panigrahi ; (8) Shri Viswanatha Menon ; (9) Shri J.H. Patel ; (10) Shri Randhir Singh ; (11) Shri Tennenti Viswanathan ; (12) Shri Dinkar Desai ; and (13) Shri Vidya Charan Shukla (The Minister of State in the Ministry of Home Affairs).

Dr. Ram Subhag Singh (Minister of Parliamentary Affairs and Communications).

7. The Minister wanted the Mover to withdraw the Bill in view of article 85(1).
8. The Bill was *withdrawn* by leave of the House.

29. *The Constitution (Amendment) Bill, 1967.* (Bill No. 129 of 1967).

1. *Introduced on* 16th November, 1967 by Shri P.K. Deo.
2. *Substitution of article 156 and insertion of new article 159A.*
3. *Discussion on the motion for consideration held on* : 1st March and 14th March, 1968.
4. *Time allotted* :
5. *Time taken* : 2 hours, split up as, 1st March : 14 mts. (5.15 p.m. to 5.29 p.m.) and 14th March 1 hr. 46 mts. (4.14 p.m. to 6 p.m).
6. *Members who participated in the motion for consideration* : 13, namely, (1) Shri H.N. Mukerjee : (2) Chaudhuri Randhir Singh ; (3) Shri S. Kandappan ; (4) Shri Bhola Nath Master ; (5) Shri Hardayal Devgun ; (6) Shri Diwan Chand Sharma ; (7) Shri Surendra Kumar Tapuriah ; (8) Shri Rabi Ray ; (9) Shri K. Narayana Rao ; (10) Shri V. Viswanatha Menon ; (11) Shri Onkar Lal Bohra ; (12) Shri Samarendra Kundu ; and (13) Shri Y.B. Chavan.
7. The Minister wanted the mover to withdraw the Bill.
8. The Bill was *withdrawn* by leave of the House.

30. *The Constitution (Amendment) Bill, 1968* (Bill No. 6 of 1968)

1. *Introduced on* 16th February, 1968 by Shri Madhu Limaye.
2. *Amendment of* article 74 and 163.
3. *Discussion on the motion for consideration held on* : 10th May and 26th July, 1968.
3. *Time allotted* : 1 hour and 30 mts. Extended by another hour.

5. *Time taken* : 2 hrs. 30 mts., split up as : 10th May : 21 mts. (6 p.m. to 6.21 p.m.) and 26th July : 2 hrs. 9 mts. (3.05 p.m. to 5.14 p.m.).

6. *Members who participated in the motion of consideration* : 17 namely : (1) Shri Bhandare ; (2) Shri Lobo Prabhu ; (3) Shri Rane ; (4) Shri Tennenti Viswanathan (5) Shri Randhir Singh ; (6) Shri M. Krishna ; (7) Shri Asghar Husain ; (8) Shri Om Prakash Tyagi ; (9) Shri Prem Chand Verma ; (10) Shri Rajaram ; (11) Shri Onkarlal Bohra ; (12) Shri Sarjoo Pandey ; (13) Shri Tulsidas Jadhav ; (14) Shri Abdul Ghani Dhar ; (15) Shri A. Sreedharan ; (16) Shri Era Sezhiyan ; and (17) Shri Govinda Menon (The Minister of Law).

7. *The Minister wanted the withdrawal of the Bill as the* Committee on Defections was considering the question.

8. *The Bill was withdrawn* by leave of the House.

31. *The Constitution (Amendment) Bill, 1968* (Bill No. 16 of 1967)

1. *Introduced on* 23rd March, 1967 by Shri Era Sezhiyan.

2. *Amendment of* article 120.

3. *Discussion on the motion for consideration held on* : 26th July and 9th August, 1968.

4. *Time allotted* : 1 hr. 30 mts. Extended by 30 minutes.

5. *Time taken* : 2 hrs. 18 mts., split up as : 26th July : 18 mts. (5.14 p.m. to 5.32 p.m.) and 9th August : 2 hrs. (3 p.m. to 5 p.m.).

6. *Members who participated in the motion for consideration* : 13 namely : (1) Shri Sheo Narain ; (2) Shri Jagannatha Rao Joshi ; (3) Dr. Govinda Das ; (4) Shri S. Kandappan ; (5) Shri Onkarlal Bohra ; (6) Shri H.N. Mukerjee ; (7) Shri Chintamani Panigrahi ; (8) Shri Viswanatha Menon ; (9) Shri J.H. Patel ; (10) Shri Randhir Singh ; (11) Shri Tennenti Viswanathan ; (12) Shri Dinkar Desai ; and (13) Shri Vidya Charan Shukla (The Minister of State in the Ministry of Home Affairs).

7. *The Deputy Prime Minister opposed the Bill in principle.*

8. *The Mover, however, pressed the motion.*

9. *The House divided recorded 26 Ayes 73 Noes*

10. *The motion was, therefore, negatived.*

32. *The Constitution (Amendment) Bill, 1968* (Bill No. 106 of 1968)

1. *Introduced* on 13th December, 1968 by Shri C.C. Desai.

2. *Amendment of* articles 80 and 171.

3. *Discussion on the motion for consideration held on* : 21st February and 7th March, 1969.

4. *Time allotted* : 2 hrs.

5. *Time taken* : 2 hrs. 3 mts., split up as : 21st Feb. : 1 hr. 51 mts. (4.09 p.m. to 6 p.m.) and 7th March : 12 mts. (5.03 p.m. to 5.15 p.m.).

6. *Members who participated in the motion for consideration* : 11 (including the Minister) ; namely (1) Shri Kandappan ; (2) Shri Kanwarlal Gupta ; (3) Shri Randhir Singh ; (4) Shri P. Ramamurthi ; (5) Shri S.M. Krishna ; (6) Shri Sheo Narain ; (7) Shri Sarjoo Pande ; (8) Shri Lobo Prabhu ; (9) Shri Mrithunjaya Prasad ; (10) Shri K. Lakappa ; and (11) Shri Govinda Menon (The Minister of Law and Social Welfare).

7. The Minister opposed the motion and requested the Member to withdraw the Bill.

8. The motion was put to the division of the House and the House division recorded 16 Ayes and 48 Noes.

9. The motion was, therefore, *negatived.*

33. *The Constitution (Amendment) Bill, 1968* (Bill No. 83 of 1968)

1. *Introduced* on 15th November, 1968 *by* Shri Kameshwar Singh.

2. *Amendment* of articles 75, 164 and 326.

3. *Discussion on the motion for consideration held on* : 18th April, 1st May and 16th May, 1969.

4. *Time allotted* : 2 hrs.

5. *Time taken* : 2 hrs. 24 mts, split up as : 18th April : 23 mts. (i.e.) 6.07 p.m. to 6.30 p.m. ; 1st May : 1 hr. 35 mts. (i.e.) 4.37 p.m. to 6.12 p.m. ; and 16th May : 26 mts. (i.e.) 4.44 p.m. to 5.10 p.m.

6. *Members who participated in the motion for consideration* : 14 (including the Minister) namely : (1) Shri Randhir Singh ; (2) Shri Balraj Madhok ; (3) Shri Prakash Vir Shastri ; (4) Shri Himatsingka ; (5) Shri S.M. Krishna ; (6) Shri Shashi Bhushan ; (7) Shri R.D. Bhandare ; (8) Shri K. Narayan Rao ; (9) Shri Humayun Kabir ; (10) Shri Nambiar ; (11) Shri Sheo Narain ; (12) Shri Ramavatar Shastri ; (13) Shri Madhu Limaye ; and (14) The Minister of Law and Social Welfare (Shri Govinda Menon).

7. Shri Madhu Limaye moved a motion that the Bill be circulated for the purpose of eliciting opinion thereon by the 25th November, 1969. The motion was voted upon but was lost. The voting was 37 Ayes and 106 Noes.

8. The Minister opposed the motion and requested the Member to withdraw the Bill.

9. The motion was put to the division of the House and the House division recorded 32 Ayes and 103 Noes.

10. The motion was, therefore, *negatived*,

34. *The Constitution (Amendment) Bill, 1967* (Bill No. 160 of 1967)

1. *Introduced* on 16th February, 1968 *by* Shri Shiva Chandra Jha.

2. *Amendment* of articles 4 and 80 and omission of the Fourth Schedule.

3. *Motion for consideration held on* 8th and 22nd August, 1969.

4. *Time allotted* : 1 hour.

5. *Time taken* : 2 hrs. 15 mts., split up as : 8th : 25 mts. (i.e.) 5.05 p.m. to 5.30 p.m. and 2?nd : 1 hr. 50 mts. (i.e.) 3.40 p.m. to 5.30 p.m.

6. *Members who participated in the consideration motion* : 11 (including the Minister), namely : (1) Shri Bedabrata Barua ; (2) Shri Onkar Lal Bohra ; (3) Shri G. Viswanathan ; (4) Shri Randhir Singh ; (5) Shri Om Prakash Tyagi ; (6) Shri Nathu Ram Ahirwar ; (7) Shri Kandappan ; (8) Shri K.M. Madhukar ; (9) Shri R.D. Bhandare ; (10) Shri Umanath ; and (11) Shri P. Govinda Menon (The Minister of Law and Social Welfare).

7. The Minister opposed the Bill.

8. The Chairman put the motion to the vote of the House since it was a Constitution Amendment Bill although the Member did not insist on a division.

9, Voting on the motion was 8 Ayes and 66 Noes.

10. The motion was, therefore, *negatived.*

II. BILLS DISCUSSED IN THE RAJYA SABHA

1. The Constitution (Third Amendment) Bill, 1953 (Bill No. X of 1953).

1. *Introduced* on 10th April, 1953 by Shri Satyapriya Banerjee.

2. *Amendment of* article 31 (Substitution of new article for the existing one).

3. *Discussion on the consideration motion held on* : 4th Sept., 1953 and 4th December, 1953.

4. *Time allotted* :

5. *Time taken* : 3 hrs., 50 mts. split up as, 4th : 2 hrs. 50 mts. (10.10 a.m. to 1 p.m.) and 4th : 1 hour (1.40 p.m. to 2.40 p.m.).

6. *Members who participated in the discussion* : 9 : (1) Shri S.N. Mazumdar ; (2) Shri T.S. Pattabhiraman ; (3) Shri H.D. Rajah ; (4) Shri S.N. Dwivedi ; (5) Shri Rama Rao ; (6) Shri P. Sundarayya ; (7) Shri Rajagopala Naidu ;

(8) Shri J.S. Bisht ; and (9) Shri C.C. Biswas (The Minister for Law and Minority Affairs).

7. Minister's suggestion to the Mover to withdraw the amendment with the assurance that the matter was receiving due consideration at the hands of the Government.

8. Division claimed by Shri Banerjee ; *Voting on the motion* : 16 for and 44 against. The vote was taken not by a division but by a count taken by making persons stand in their places.

9. The motion was, therefore, *negatived*,

2. *The Constitution (Fourth Amendment) Bill, 1954* (Bill No. XX of 1954)

1. *Introduced* on 3rd December, 1954 by Shri Satyapriya Banerjee.

2. *Amendment of* article 329 (Insertion of new article 329A)

3. *Discussion on the motion for circulation* of the Bill for eliciting opinion thereon was held on 17th December, 1954.

4. *Time allotted* : 2 hrs. 30 mts.

5. *Time taken* : 2 hrs. 35 mts. (11.05 a.m. to 1.05 p.m. and 2.30 p.m. to 3.05 p.m.)

6. *Members who participated in the motion for circulation* : 6 : (1) Shri S. Mahanty ; (2) Dr. Smt. Seeta Parmanand ; (3) Shri B.K.P. Sinha ; (4) Shri S.N. Dwivedy ; (5) Shri Bhupesh Gupta ; and (6) Shri H.V. Pataskar (The Minister in the Ministry of Law).

7. The Minister opposed the motion.

8. *Voting on the motion* (by division) : 11 for and 40 against.

9. The motion was, therefore, *negatived.*

3. *The Constitution (Fifth Amendment) Bill, 1955* (Bill No. X of 1955).

1. *Introduced* on 26th August, 1955 by Shri Satyapriya Banerjee.

2. *Amendment of* articles 80 and 170.

3. *Discussion on the motion for consideration held on* : 9th December, 1955.
4. *Time allotted* :
5. *Time taken* : 2 hrs. 30 mts. (11.10 a.m. to 1 p.m. and 2.30 p.m. to 3.10 p.m.)
6. *Members who participated in the discussion* : 6 : (1) Shri H.P. Saksena ; (2) Shri Jaspat Roy Kapoor ; (3) Prof. N.G. Ranga ; (4) Shri Kishen Chand ; (5) Shri M. Govinda Reddy ; & (6) Shri C.C. Biswas (The Minister of Law)
7. Minister opposed the motion.
8. Point raised by Shri Kishen Chand whether division was necessary or not at the final stage. The ruling was that a count was sufficient as he was convinced that majority was against it.
9. Result of the Count : 8 for and 23 against.
10. Motion, therfore, was *negatived.*

4. The Constitution (Amendment) Bill, 1960 (Bill No. XV of 1960)

1. *Introduced* on 19th August, 1960 by Shri Bhupesh Gupta.
2. *Amendment of* article 333.
3. *Discussion on the motion for the consideration held on* : 23rd March, 1962.
4. *Time allotted* :
5. *Time taken* : 2 hrs. 50 mts. (12.30 p.m. to 1 p.m. and 2.30 p.m. to 4.50 p.m.)
6. *Members who participated in the discussion* : 6 : (1) Shri P.N. Sapru ; (2) Shri K.K. Shah ; (2) Shri J.S. Bisht ; (4) Shri Akbar Ali Khan ; (5) Shri Gopikrishna Vijayavargiya ; and (6) Smt. Violet Alva (the Deputy Minister of Home Affairs).
7. The Minister requested the Mover to withdraw the Bill.
8. The Mover pressed for a division. The result of division : Not available.

9. The motion was *negatived.*

5. *The Constitution (Amendment) Bill, 1961* (Bill No. 11 of 1961)

1. *Introduced* on 10th March, 1961 by Shri Bhupesh Gupta.
2. *Amendment of* the First Schedule.
3. *Discussion on the motion for consideration held on* : 3rd May and 6th September, 1963.
4. *Time allotted* :
5. *Time taken* : 5 hrs. 29 mts. split up as : 3rd : 4 hrs. 22 mts. (11.10 a.m. to 1.02 p.m. and 2.30 p.m. to 5 p.m) ; and 6th : 1 hour (11.10 a.m. to 12.10 p.m.).
6. *Members who participated in the consideration motion* : 16: (1) Shri Sheelbhadra Yaji ; (2) Shri Akbar Ali Khan ; (3) Shri T.S. Pattabhiraman ; (4) Shri K. Santhanam ; (5) Shri Niren Ghosh ; (6) Shri Abdul Ghani ; (7) Shri C.N. Annadurai ; (8) Shri N.M. Lingam ; (9) Shri M.B. Bhargava ; (10) Shri V.M. Chordia ; (11) Smt. C. Ammana Raja ; (12) Shri B. Ramakrishna Rao ; (13) Shri Lokenath Mishra ; (14) Shri K.V. Raghunatha Reddy ; (15) Shri S.C. Karyalar ; (16) Shri R.M. Hajarnavis (the Minister of State in the Ministry of Home Affairs).
7. The Minister opposed the motion.
8. Shri Bhupesh Gupta pressed for a division. The result of the division : Not available.
9. The motion was, therefore, *negatived.*

6. *The Constitution (Amendment) Bill, 1961* (Bill No. III of 1961)

1. *Introduced* on 10th March, 1961 by Shri Bhupesh Gupta.
2. *Amendment of* article 72.
3. *Discussion on the motion for consideration held on* : 18th August, 8th December, 1961 and 23rd March, 1962.
4. *Time allotted* :
5. *Time taken* : 36 mts , split up as : 18th : 1 hr. 40 mts. (3.20 p.m. to 5 p.m.) ; 8th : 4 hrs. 16 mts. (11.15 to 1 p.m.

and 2.30 p.m. to 5.01 p.m.) ; 23rd : 45 mts. (11.45 a.m. to 12.30 p.m.)

6. *Members who participated in the discussion* : 23 : (1) Shri M. Govinda Reddy ; (2) Shri A.D. Mani ; (3) Dr. W.S. Barlingay ; (4) Shri Jaswant Singh ; (5) Shri Santosh Kumar Basu ; (6) Shri Satyacharan ; (7) Shri P.N. Sapru ; (8) Shri Sheelbhadra Yaji ; (9) Shri K. Santhanam ; (10) Shri Arjun Arora ; (11) Shri Dahyabhai V. Patel ; (12) Dr. Smt. Seeta Parmanand ; (13) Shri Bairagi Dwivedy ; (14) Smt. Yashoda Reddy ; (15) Shri Rajendra Pratap Sinha ; (16) Shri Surendra Mohan Ghose ; (17) Smt. T. Nallamuthu Ramamurthi ; (18) Shri Mahesh Saran ; (19) Shri P.N. Rajbhoj ; (20) Smt. Pushpalata Das ; (21) Pandit H.N. Kunzru ; (22) Shri M.P. Bhargava ; and (23) Smt. Violet Alva (Minister of Home Affairs).

7. The Minister opposed the motion.

8. The Mover pressed for the division, The result of the division : Not available.

9. The motion was, therefore, *negatived.*

7. *The Constitution (Amendment) Bill, 1961* (Bill No. IV of 1961)

1. *Introduced* on 10th March, 1961 by Shri Bhupesh Gupta.

2. *Amendment of* articles 74, 123, 124, 217 and the Second Schedule.

3. *Discussion on the motion that the Bill be taken into consideration held on* : 23rd March ; 4th May ; 16th November and 30th November 1962.

4. *Time allotted* :

5. *Time taken* : 12 hrs. 19 mts., split up as : 23rd : 5 mts. ; 4th : 4 hrs. 25 mts. (11.05 a.m. to 1 p.m. and 2.30 p.m. to 5 p.m.) ; 16th : 4 hrs. 20 mts (11.10 a.m. to 1 p.m. and 2.10 p.m. to 5 p.m.) and 30th : 3 hrs. 29 mts. (12.01 p.m. to 12.51 p.m. and 2.30 p.m. to 5.05 p.m.).

6. *Members who participated in the consideration motion* : 12 : (1) Shri G.S. Pathak ; (2) Shri M.S. Gurupadaswamy ;

(3) Shri P.N. Sapru ; (4) Shri B.K.P. Sinha ; (5) Shri V.M. Chordia ; (6) Shri K. Santhanam ; (7) Shri A.D. Mani ; (8) Shri Sheelbhadra Yaji ; (9) Shri M P. Bhargava ; (10) Shri K.V. Raghunatha Reddy ; (11) Shri Nafisul Hasan ; and (12) Shri B.N. Datar (The Minister of State in the Ministry of Home Affairs).

7. The Minister opposed the motion.

8. Shri Bhupesh Gupta sought permission to withdraw the Bill.

9. Leave being given, the motion was *withdrawn.*

8. The Constitution (Amendment) Bill, 1961 (Bill No. VI of 1961).

1. *Introduced* on 10th March, 1961 by Shri Bhupesh Gupta.

2. *Amendment of* article 57.

3. *Discussion on the consideration motion held on* : 21st April and 18th August, 1961.

4. *Time allotted* :

5. *Time taken* : 1 hr. 25 mts., split up as : 21st : 1 hour (4 p.m. to 5 p.m.) and 18th : 25 mts. (2.50 p.m. to 3.15 p.m.).

6. *Members who participated in the discussion* : Shri Jawaharlal Nehru (The Prime Minister and Minister of External Affairs).

7. The Prime Minister requested the withdrawal of the motion.

8. The Mover sought permission to withdraw the Bill. Leave being given, the motion was *withdrawn.*

9. The Constitution (Amendment) Bill, 1961 (Bill No. VII of 1961)

1. *Introduced* on 10th March, 1961 by Shri Sudhir Ghosh.

2. *Amendment of* article 343.

3. Mover moved for leave to withdraw the Bill consequent on the Government decision to bring a Bill on the subject on 17th August, 1962.

4. Leave being given, the motion was *withdrawn.*

10. The Constitution (Amendment) Bill, 1962 (Bill No. III of 1962)

1. *Introduced* on 17th August, 1962 by Shri A.B. Vajpayee.
2. *Amendment of* Eighth Schedule.
3. *Discussion on the consideration motion held on*: 23rd August 1963
4. *Time allotted* :
5. *Time taken* : 20 mts ; (11.03 a m. to 11.23 a.m.)
6. *Members who participated in the discussion* : (1) Shri Jairamdas Daulatram : and (2) Shri R.M. Hajarnavis.
7. Shri Jairamdas Daulatram moved an amendment for the adjournment of the discussion on the Bill on the ground that time was required for proper consideration as also the need for a favourable opportunity.
8. Motion for adjournment of the debate was put to vote consequent on the Minister accepting the proposal in that regard.
9. *The motion for adjournment* was adopted.

11. The Constitution (Amendment) Bill, 1962 (Bill No. VIII of 1962).

1. *Introduced* on 16th November, 1962 by Shri Bhupesh Gupta.
2. *Amendment of* article 291.
3. *Discussion on the motion for circulation of the Bill held on* : 6th September, and 13th December, 1963 and 21st February, 1964.
4. *Time allotted* :
5. *Time taken* : 6 hrs. 4 mts., split up as : 6th : 1 hr. 30 mts. (12.30 p.m. to 1 p.m. and 2.30 p.m. to 2.45 p.m. and 3.55 p.m. to 5 p m.) ; 13th : 9 mts. (4.50 p.m. to 4.50 p.m.) ; and 21st : 4 hrs. 25 mts. (11.05 a.m. to 1 p.m. and 2.30 p.m. to 5 p.m.)
6. *Members who participated in the discussion* : (1) Shri Sheel Bhadra Yaji ; (2) Shri Pyarelal Kureel Talib ; (3) Shri Akbar Ali Khan ; (4) Shri A.D. Mani ; (5) Shri M.N.

Govindan Nair ; (6) Shri Abdul Gani ; (7) Shri P.N. Sapru ; (8) Shri Goda Morahari ; (9) Shri M.N. Anwar ; (10) Shri A.M. Tariq ; and (11) Shri R.M. Hajarnavis (The Minister).

7. The Minister suggested the withdrawal of the Bill.

8. Shri Bhupesh Gupta stated that he would consider withdrawing the Bill or pressing it to vote after having the reaction of the Congress Working Committee to a non-official resolution for abolition of the Privy Purse that was to come before it.

9. Further discussion did not take place. The Bill lapsed on the retirement of the member on 2nd April, 1964.

10. The Bill was, however, reintroduced as Bill No. VIII of 1964 on 18th September, 1964.

12. The Constitution (Amendment) Bill, 1963 (Bill No. XVIII 1962).

1. *Introduced* on 3rd May, 1963 by Shri K.V. Raghunatha Reddy.

2. *Amendment of* articles 16, 32, 134, 226 and insertion of new article 37A.

3. *Time allotted* : Not available.

4. *Time taken* : Not available.

5. *Discussion on the consideration motion held on* : 26th February and 12th March, 1965.

6. *Members who participated in the consideration motion* : 4 : (1) Shri Bhupesh Gupta ; (2) Shri P.N. Sapru ; (3) Shri A.D. Mani ; and (4) Shri Jaisuklal Hathi (Minister).

7. The Minister requested the Mover to withdraw the Bill.

8. Mover moved for leave to withdraw the Bill. Leave being given the motion was *withdrawn.*

13. The Constitution (Amendment) Bill, 1963 (Bill No. XXVII of 1963).

1. *Introduced* on 23rd August, 1963 by Shri A.D. Mani.

2. *Amendment of* article 143.

3. *Discussion on the motion for consideration held on*: 3rd September and 17th September, 1965.
4. *Time allotted*:
5. *Time taken*: 4 hrs. 17 mts., split up as: 3rd: 57 mts. (4 03 p m. to 5 p.m.) and 17th: 3 hrs. 20 mts. (11.05 a.m. to 12.25 p.m and 2 p.m. to 4 p.m.)
6. *Members who participated in the discussion*: 7: (1) Shri Akbar Ali Khan; (2) Shri Bhupesh Gupta; (3) Shri G.S. Pathak; (4) Shri Mulka Govinda Reddy; (5) Shri B K. P. Sinha; (6) Shri M. Ruthnaswamy; and (7) Shri Jagannatha Rao (Minister).
7. The Minister requested the Mover to withdraw the Bill.
8. The Mover moved for leave to withdraw the Bill. Several members, however, shouted 'no' and as such the leave for withdrawal was not given.
9. A division was forced. The result was: 7 for and 63 against.
10. The motion was, therefore, *negatived.*

14. The Constitution (Amendment) Bill, 1967

1. *Introduced* on 18th August, 1967 by Shri Banke Behary Das.
2. *Amendment* of article 368 as introduced in the Lok Sabha.
3. *Discussion on the motion for the concurrence of the House on the recommendation of the Lok Sabha to join in the Joint Committee of the Houses held on* 18th August, 1967.
4. *Time allotted*: The Business Advisory Committee had not allotted any time-limit. It was expected that as the motion was for reference to a Joint Committee wherein it would be thrashed out, it would end up soon. But in view of a long speech made by a member and that there was no knowing how long that member would continue, there was a demand by the members of the House to fix a time limit for the discussion. The sense of the House was taken and in keeping with the importance of the Bill 2 hrs. 15 mts. was allocated to it.

5. *Time taken* : 2 hrs. 15 mts. (4.15 p.m. to 6.30 p.m.).

6. *Members of the Rajya Sabha to the Joint Committee* : 15, namely : (1) Shri Chitta Basu ; (2) Shri M.V. Bhadran ; (3) Shri M.P. Bhargava ; (4) Shri K. Chandrasekharan ; (5) Shri A.P. Chatterjee ; (6) Shri Jairamdas Daulatram ; (7) Shri Kota Punniah ; (8) Shri Ram Nivas Mirdha ; (9) Shri G.H. Valimohmed Momin ; (10) Shri G.R. Patil ; (11) Shri J. Sivashanmugam Pillai ; (12) Smt. Yashodha Reddy ; (13) Shri Jogendra Singh ; (14) Shri Triloki Singh ; and (15) Shri Ranendra Pratap Sinha. (It is to be noted that the mover himself excluded his name from the Committee membership).

7. *Members who participated in the discussion* : 2, namely, (1) Shri B.K.P. Sinha ; and (2) Shri V.M. Chordia. Shri Chordia spoke for nearly 1 hour and 30 mts. and had not the House insisted on fixing the time-limit for the discussion on the Bill, he would have gone on for a longer time. Consequently no other member could participate. There was not even time for the spokesman on the Government side or the Mover of the Bill to reply.

8. *The motion was put and that was adopted.*

9. This was perhaps the first time that a private member's Constitution Amendment Bill, the motion for reference of which to a Joint Committee was passed by the Lok Sabha was discussed and adopted in concurrence motion. However, unlike the case of Government Bills wherein the Mover of the motion could be the same person, in this case, being a Private Member's Bill and consequently of the disability of the member to initiate and proceed further in respect of the Bill in the House other than the one to which he belonged, Shri Banke Behary Das who belonged to the same party as Shri Nath Pai belonged to, saw to the initiation and further consideration of the Bill in this House. This was also perhaps the first motion that was adopted by the House.

10. A noteworthy feature of the Bill was the marathon speech

3. *Discussion on the motion for consideration held on*: 3rd September and 17th September, 1965.
4. *Time allotted*:
5. *Time taken*: 4 hrs. 17 mts., split up as: 3rd: 57 mts. (4 03 p m. to 5 p.m.) and 17th: 3 hrs. 20 mts. (11.05 a.m. to 12.25 p.m. and 2 p.m. to 4 p.m.)
6. *Members who participated in the discussion*: 7: (1) Shri Akbar Ali Khan; (2) Shri Bhupesh Gupta; (3) Shri G.S. Pathak; (4) Shri Mulka Govinda Reddy; (5) Shri B K. P. Sinha; (6) Shri M. Ruthnaswamy; and (7) Shri Jagannatha Rao (Minister).
7. The Minister requested the Mover to withdraw the Bill.
8. The Mover moved for leave to withdraw the Bill. Several members, however, shouted 'no' and as such the leave for withdrawal was not given.
9. A division was forced. The result was: 7 for and 63 against.
10. The motion was, therefore, *negatived.*

14. The Constitution (Amendment) Bill, 1967

1. *Introduced* on 18th August, 1967 by Shri Banke Behary Das.
2. *Amendment* of article 368 as introduced in the Lok Sabha.
3. *Discussion on the motion for the concurrence of the House on the recommendation of the Lok Sabha to join in the Joint Committee of the Houses held on* 18th August, 1967.
4. *Time allotted*: The Business Advisory Committee had not allotted any time-limit. It was expected that as the motion was for reference to a Joint Committee wherein it would be thrashed out, it would end up soon. But in view of a long speech made by a member and that there was no knowing how long that member would continue, there was a demand by the members of the House to fix a time limit for the discussion. The sense of the House was taken and in keeping with the importance of the Bill 2 hrs. 15 mts. was allocated to it.

5. *Time taken* : 2 hrs. 15 mts. (4.15 p.m. to 6.30 p.m.).

6. *Members of the Rajya Sabha to the Joint Committee* : 15, namely : (1) Shri Chitta Basu ; (2) Shri M.V. Bhadran ; (3) Shri M.P. Bhargava ; (4) Shri K. Chandrasekharan ; (5) Shri A.P. Chatterjee ; (6) Shri Jairamdas Daulatram ; (7) Shri Kota Punniah ; (8) Shri Ram Nivas Mirdha ; (9) Shri G.H. Valimohmed Momin ; (10) Shri G.R. Patil ; (11) Shri J. Sivashanmugam Pillai ; (12) Smt. Yashodha Reddy ; (13) Shri Jogendra Singh ; (14) Shri Triloki Singh ; and (15) Shri Ranendra Pratap Sinha. (It is to be noted that the mover himself excluded his name from the Committee membership).

7. *Members who participated in the discussion* : 2, namely, (1) Shri B.K.P. Sinha ; and (2) Shri V.M. Chordia. Shri Chordia spoke for nearly 1 hour and 30 mts. and had not the House insisted on fixing the time-limit for the discussion on the Bill, he would have gone on for a longer time. Consequently no other member could participate. There was not even time for the spokesman on the Government side or the Mover of the Bill to reply.

8. *The motion was put and that was adopted.*

9. This was perhaps the first time that a private member's Constitution Amendment Bill, the motion for reference of which to a Joint Committee was passed by the Lok Sabha was discussed and adopted in concurrence motion. However, unlike the case of Government Bills wherein the Mover of the motion could be the same person, in this case, being a Private Member's Bill and consequently of the disability of the member to initiate and proceed further in respect of the Bill in the House other than the one to which he belonged, Shri Banke Behary Das who belonged to the same party as Shri Nath Pai belonged to, saw to the initiation and further consideration of the Bill in this House. This was also perhaps the first motion that was adopted by the House.

10. A noteworthy feature of the Bill was the marathon speech

made by Shri V.M. Chordia which amounted to filibustering.

15. The Constitution (Amendment) Bill, 1965 (Bill No. XXXI *of* 1964)

1. *Introduced* on 26th February, 1965 by Shri J. Sivashanmugam Pillai.
2. *Amendment of* article 319.
3. *Discussion on the motion for consideration held on* 23rd February, 1968.
4. *Time allotted* ; 1 hr. 30 mts.
5. *Time taken* : 1 hr. 30 mts. (2.32 p.m. to 4.02 p.m.).
6. *Members who participated in the discussion* : 8, namely, (1) Shri Bhupesh Gupta ; (2) Shri A.D. Mani ; (3) Shri Raj Narain ; (4) Shri M. Ruthnaswamy ; (5) Shri Arjun Arora ; (6) Smt. Tarabai Sathe ; (7) Shri R.T. Parthasarathy ; and (9) Shri P. Govinda Menon (The Minister of Law).
7. *The Minister requested the member to withdraw the Bill.*
8. *The Bill was withdrawn by leave of the House.*

16. The Constitution (Amendment) Bill, 1966 (Bill No. X of 1966).

1. *Introduced* on 5th August, 1966 by Shri A.D. Mani.

   (As a matter of fact the Bill was originally introduced on 26th February, 1965 as Bill No. III of 1965 but that lapsed consequent on the termination of the tenure of office as member of Rajya Sabha).

2. *Amendment of* article 101.
3. *Motion for consideration moved on 23rd February, 1968.*
2. *Time allotted* : Not available.
5. *Time taken* : Not available.
6. On 14th March, 1968 a motion moved for adjournment of further consideration of the Bill was adopted to facilitate the consideration of Shri Bhupesh Gupta's Bill relating to

Privy Purse as it was of a topical issue agitating the public mind.

17. *The Constitution (Amendment) Bill, 1964* (Bill No. VIII of 1964).

1. *Introduced* on 18th September, 1964 by Shri Bhupesh Gupta. (Attention should be drawn to the fact that the Rajya Sabha had already discussed the Bill on the subject moved by the member earlier but inconclusively).

2. *Amendment of* article 291.

3. *Discussion on the motion for consideration held on* : 10th March ; 10th May ; 2nd and 22nd August, 1968.

4. *Time allotted* :

5. *Time taken* : split up as : 14th March : 1 hr. 58 mts. (5.03 p.m. to 7 01 p.m.) ; 10th May : 1 hr. 21 mts. (2.40 p.m. to 3 43 p.m. and 4.42 p.m. to 5 p.m.) ; 2nd August : 2 hrs. 23 mts. (2.35 p m. to 4.58 p.m.) ; 22nd August : 1 hr. 41 mts. (2.30 p.m. to 3.23 p.m. and 3 43 p.m. to 4.31 p.m.).

6. *Members who participated in the discussion* :

(1) Shri Babubhai M. Chinai ; (2) Shri Raj Narain : (3) Shri A.M. Tariq ; (4) Shri S.K. Vaishampayen ; (5) Shri Banke Behary Das ; (6) Shri Mohammad Yunus Saleem ; (7) Shri Sheel Bhadra Yajee ; (8) Shri Balkrishna Gupta ; (9) Shri Balchandra Menon ; (10) Shri Dahyabhai V. Patel ; (11) Shri B.K.P. Sinha ; (12) Dr. B.N. Antani ; (13) Shri Awadheshwar Prasad Sinha ; (14) Shri Niranjan Varma ; (15) Shri G.A. Appan ; (16) Shri A D. Mani ; (17) Shri Z.A. Ahmad ; (18) Shri Chitta Basu ; (19) Shri Hayatullah Ansari ; (20) Shri Devi Singh ; (21) Shri Keshavan (Thazhava) ; (22) Shri Chandrashekhar ; (23) Shri Suraj Prasad ; (24) Shri P.C. Mitra ; (25) Shri M.M. Dharia ; (26) Smt. Lalita Rajagopalan ; (27) Shri Arjun Arora ; (28) Shri G R. Patil ; (29) Kumari Maniben Vallabhbhai Patel ; (30) Shri M.V. Bhadram ; (31) Shri Tarkeshwar Pande.

18. The Constitution (Amendment) Bill, 1964 (Bill No. X of 1964.

1. *Introduced on* 3rd October, 1964 by Shri Bhupesh Gupta.
2. *To amend* articles 352 and 359 and insertion of new article 360A.
3. *Motion for consideration held on* 29th November, and 13th December, 1968.
4. *Time allotted*: Two and a half hours but extended further by another two and a half hours.
5. *Time taken*: 5 hrs. 13 mts. split up as : 29th Nov. : 2 hrs. 26 mts. (12.45 p.m. to 1 p.m. and 2.49 p.m. to 5 p.m) and 13th Dec. : 2 hrs. 47 mts. (2 08 p.m. to 4.55 p.m.).
6. *Members who participated in the discussion* : 9 including the spokesman on behalf of the Government, namely : (1) Shri Abid Ali ; (2) Shri Raj Narain ; (3) Shri Sunder Singh Bhandari ; (4) Shri R.T. Parthasarathy ; (5) Shri Chitta Basu ; (6) Shri Balachandra Menon ; (7) Shri K.P. Subramania Menon ; (8) Shri A.D. Mani ; and (9) Shri Mohammad Yunus Saleem (The Deputy Minister in the Ministry of Law).
7. *The Minister opposed the Bill* on the ground that there was any justification for it. He wanted the House to throw out the Bill.
8. Two important points came up for discussion during the course of the debate. The first was Shri Bhupesh Gupta's insistence, in view of the importance of the Bill and as the subject pertained to the Ministry of Home Affairs, for the Home Minister or a Minister with a Cabinet rank, to intervene instead of a junior Minister. This demand, however, was not accepted. The seond thing to which Shri Bhupesh Gupta objected to and that was sustained was the taking up of some other business before the discussion on the Bill was concluded and encroached on the time allotted to the discussion on Private Members' Bill.
9. The motion was put before the House but that was *negatived.*

(F) Synoptical details Regarding Ratification of Constitution Amendment Bills in various States Legislatures

(In the order in which ratification was done)

CONSTITUTION (SECOND AMENDMENT) BILL

1. **Uttar Pradesh :** *Legislative Assembly* : *Discussed on* 8th January, 1953.

Motion moved by : Shri G.B. Pant (Chief Minister).

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri Raj Narain ; (2) Shri Narain Dutt Tiwari ; (3) Shri Madan Mohan Upadhyaya ; (4) Shri Jag Mohan Singh Negi (Minister for Forests) ; (5) Maharaj Kumar Balendu Saha ; (6) Shri Hemavati Nandan Bahuguna ; (7) Shri Genda Singh ; and (8) Shri Ram Naresh Shukla.

Motion was carried without division.

Legislative Council : Discussed on 7th January, 1953.

Motion moved by : Shri G.B. Pant (Chief Minister).

Motion carried without division.

2. **West Bengal :** *Legislative Assembly* : Discussed on 3rd February, 1953.

Motion carried by 121 votes as against 66.

Legislative Assembly : Discussed on 3rd February, 1953.

Motion carr ied without division.

3. **Bihar :** *Legislative Assembly* : *Discussed on* 6th March, 1953.

Motion moved by Shri Anugrah Narain Sinha.
Motion adopted without division.

4. **Saurashtra** : *Legislative Assembly* : *Discussed on* 5th March, 1953.

Motion moved by Shri H.D. Dave (Finance Minister).

Motion carried without division.

5. **Madras :** *Legislative Assembly* : *Discussed on* 9th March, 1953.

Motion moved by Shri C. Subramaniam.

Amendments moved by Shri Gopalakrishniah (Two) and Shri Vemayya (One). The amendments were, however, withdrawn as the members were not in their places at time of voting.

Members who participated at the time of discussion : 19 (excluding the Mover), namely, (1) Shri P. Ramamurthy ; (2) Shri P. Venkateshwarulu ; (3) Shri N. Gopala Menon ; (4) Shri A. Govindaswamy Nayagar ; (5) Shri V. Gopala Gounder ; (6) Shri M. Venkatasubbramanyam Reddy ; (7) Shri K. Varadachari ; (8) Shri P. Jeevanandam ; (9) Shri K.V. Ramaswamy ; (10) Shri P.K. Gopalakrishnan ; (11) Shri K. Krishna Rao ; (12) Shri S. Ramaswamy Naidu ; (13) Shri K.R. Viswanathan ; (14) Shri S. Ramalingam ; (15) Shri G. Nagabhushanam ; (16) Shri T. Shanmugam ; (17) Shri C. Kandaswamy ; (18) Shri S. Radhakrishnan ; and (19) Shri Narayanan Nambiar.
Motion carried by 113 votes against 62.

Time taken : 2 hrs. 24 mts. (9.21 a.m. to 11.45 a.m.)

Legislative Council : Discussed on 9th March, 1953.

Motion moved by Shri C. Subramaniam.

Members who participated in the discussion : 6 (excluding the Mover) namely, (1) Shri T. Purushottama Mudaliar ; (2) Shri G. Krishnamurthy ; (3) Shri E.H. Parameshwaran ; (4) Shri K. Balasubramania Iyer ; (5) Dr. C. Nathamuni Naidu ; and (6) Shri D. Venkata Rao.

Motion passed without a division.

Time taken : 34 mts. (4.48 p.m. to 5.22 p.m.)

6. **Bombay** : *Legislative Assembly* : Discussed on 13th March, 1953.

Motion moved by Shri Morarji Desai.

Amendment moved by Shri S.M. Joshi. Shri S.D. Khothewala rose to point out that the amendment was out of order. Speaker also held that the amendment was out of order.

Members who participated in the discussion : 7 : (1) Shrt S.M. Joshi ; (2) Shri D.A. Deshmukh ; (3) Shri Naushir C. Barucha ; (4) Shri N.T. Sarnik ; (5) Shri Maneklal C. Shah ; (6) G.D. Sane ; and (7) Shri T.S. Jadhav.

Motion carried by 131 votes as against 24.

Time taken : 1 hr. 46 mts. (2.50 p.m. to 4.30 p.m.) and 5 p.m. to 5.15 p.m.

Legislative Council : Discussed on 19th March, 1953.

Motion moved by Shri Morarji Desai.

Members who participated in the discussion : 2 (excluding the Mover), namely : Shri R.A. Khedgikar and (2) Dr. G.S. Khair.

Motion carried without division.

Time taken : 30 mts. (6.05 p.m. to 6.35 p.m.).

7. **Madhya Pradesh** : *Legislative Assembly* : Discussed on 6th and 14th March 1953.

Motion moved by : Shri D.K. Mehta (Minister for Industries).

Members who participated in the discussion : 12 (excluding the Mover) namely : (1) Shri V.Y. Tamaskar ; (2) Shri Premnath Wasnik ; (3) Shri Kashiram Tiwari ; (4) Shri Jwalaprasad Jyotishi ; (5) Shri B.L. Verma ; (6) Shri Gangaprasad Upadhyaya ; (7) Shri Mahesh Dutta Mishra ; (8) Shri M.T. Thakre ; (9) Shri Swami Krishnanand ; (10) Shri M.G. Aggarwal ; (11) Shri M.R. Awari ; (12) Shri Thakur Niranjan Singh.

Motion passed without division.

8. **Orissa :** *Legislative Assembly* : Discussed on 14th March, 1953.

Motion moved by Shri Nabakrushna Chaudhuri (Chief Minister).

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri Shraddhakar Supakar ; (2) Shri Godavaris Misra ; (3) Shri Govinda Pradhan ; (4) Shri Fakircharan Das ; (5) Shri Gadadhar Datta ; (6) Shri Baisnab Charan Patnaik ; (7) Shri Sashikanta Bhanj ; and (8) Shri Gokulananda Praharaj.

Motion carried without division.

9. **Rajasthan :** *Legislative Assembly* : Discussed on 17th March, 1953.

Motion moved by Shri R.K. Vyas (Law Minister).

Members who participated in the discussion : 7 (excluding the Mover), namely : (1) Shri Jaswant Singh ; (2) Shri Harikrishna Vyas ; (3) Shri Man Singh ; (4) Shri Tan Singh ; (5) Shri Kan Singh ; (6) Shri Mehru Singh ; and (7) Shri Rup Narain Shastri.

Motion put and agreed to by members indicating their preference by standing in their respective seats. Shri H.K. Vyas wanted a division but the

Speaker pointed out that that was not necessary as per Article 368.

Voting ; 67 Ayes against 35 Noes.

10. **Punjab** : *Legislative Assembly* : Discussed on 21st March, 1953.

Motion moved by Shri Bhim Sen Sachar (Chief Minister).

Members who participated in the discussion : 2 (excluding the Mover) namely : (1) Sardar Achhar Singh Chhina ; and (2) Shri Ajmer Singh.
Motion carried without division.

Time taken : 30 mts. (10 30 a.m. to 11 a.m.).

Legislative Council : Discussed on 26th March. 1953.

Motion moved by Sardar Ujjal Singh (Finance Minister).

Motion carried without division.

11. **Madhya Bharat** : *Legislative Assembly* : Discussed on 31st March, 1953.

Motion was moved by Shri Sitaram Jaju.

Motion adopted without division.

12. **Mysore** : *Legislative Assembly* : Discussed on 11th April, 1953.

Motion moved by Shri A.G. Ramchandra **Rao** (Minister for Law and Education).
Members who participated in the discussion : 5 (excluding the Mover) namely : (1) Shri A. Bheemappa Naik ; (2) Shri K. Pattabhiraman : (3) Shri P.R. Ramaiya ; (4) Shri J. Mohammad Imam ; and (5) Shri M.V. Rama Rao.
Motion was adopted without a division.

Legislative Council : Discussed on 1st April, 1953.
Motion moved by : Shri A.G. Ramachandra **Rao** (Minister for Law and Education).

Members who participated in the discussion: 2 (excluding the Mover), namely: (1) Shri P. Sitaramiah ; and (2) Shri Y. Dharmappa.

Motion was adopted without division.

13. **Bihar**: *Legislative Council*: Discussed on 13th March. 1953.

Motion moved by Shri H.B. Chandra.

Members who participated in the discussion: 4 (excluding the Mover), namely: (1) Shri Hari Gauri Tiwari ; (2) Shri Ram Charan Singh ; (3) Shri Ravaneswar Mishra ; (4) Shri Prakash Lal.

Motion adopted without division.

14. **Assam**: *Legislative Assembly* : Discussed on 7th April, 1953.

Motion moved by Shri Ram Nath Das.

Members who participated in the discussion: 6 (excluding the Mover), namely: (1) Shri Hareswar Goswami ; (2) Shri A. Alley ; (3) Shri Gauri Shankar Bhattacharyya ; (4) Shri Naranarayan Goswami ; (5) Shri Maulvi Muhammad Umaruddin ; and (6) Shri Mahendranath Deka.

Motion adopted without a division,

States that discussed but did not ratify : Travancore-Cochin.

No. of States in the First Schedule on 1953 : 17 : namely : (1) Assam ; (2) Bihar ; (3) Madhya Pradesh : (4) Madras ; (5) Mysore ; (6) Orissa ; (7) Punjab ; (8) Rajasthan ; (9) Uttar Pradesh ; (10) West Bengal ; (11) Jammu and Kashmir ; (12) P atiala (PEPSU) ; (13) Saurashtra ; (14) Bombay ; (15) Hyderabad ; (16) Madhya Bharat : and (17) Travancore-Cochin.

Ratification requirement : 9 States

No. of States that ratified the Bill at the time of submission of the Bill to the Pr 9.

No. of State that ratified before the Presidential assent : 13.

It is to be noted that although the 9th State had ratified as early as 17th March 1953, the Presidential assent was given only on 1st May, 1953.

It is also to be noted that 3 States did not consider the amendment at all, *i.e.* (1) Jammu and Kashmir ; (2) Patiala and (3) Hyderabad.

CONSTITUTION (THIRD AMENDMENT) BILL

1. **Rajasthan** : *Legislative Assembly* : Discussed on 20th October, 1954.

   Motion moved by Shri Jai Narain Vyas (Chief Minister).

   Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Jaswant Singh and (2) Shri Hari Krishna Vyas.

   Motion adopted without a division.

2. **Punjab** : *Legislative Assembly* : Discussed on 2nd November, 1954.

   Motion moved by Shri Bhim Sen Sachar (Chief Minister).

   Members who participated in the discussion : 6 (excluding the Mover), namely : (1) Sardar Acchar Singh Chhina ; (2) Shri Ram Kishan ; (3) Prof. Mota Singh Anandpuri ; (4) Sardar Sarup Singh ; (5) Sardar Chanan Singh Dhut ; and (6) Prof. Sher Singh.

   Motion carried by 63 votes as against 21.

   Legislative Council : Discussed on 9th and 12th November 1954.

   Motion moved by Sardar Ujjal Singh (Finance Minister).

   Members who participated in the discussion : 3 (excluding the Mover), namely : (1) Saradar Sohan Singh ; (2) Shri Mohan Lal and (3) Shri Jodh Singh.

   Motion was carried without division.

3. **Uttar Pradesh** : *Legislative Assembly* : Discussed on 6th December, 1954.

   Motion moved by Shri Hafiz Mohd. Ibrahim (Fin. Minister)

Members who participated in the Discussion : 16 (excluding the Mover), namely : (1) Shri Narain Dutt Tiwari ; (2) Maharaj Kumar Balendu Saha ; (3) Shri Sitaram Shukla ; (4) Shri Madan Mohan Upadhyaya ; (5) Shri Shiv Narain ; (6) Shri J.S. Bisht ; (7) Shri Keshhan Rai ; (8) Shri Keshav Gupta ; (9) Shri Dev Dutt Mishra ; (10) Shri Genda Singh ; (11) Shri Narang Lal ; (12) Shri Chandra Singh Rawal ; (13) Shri Padmanath Singh ; (14) Shri Avadhesh Pratap Singh ; (15) Shri Jorawar Varma ; and (16) Shri Braj Bihari Mishra.

Motion carried by 65 votes as against 14.

Legislative Council : Discussed on 15th December, 54.

Motion moved by Shri Hafiz Mohd. Ibrahim (Fin. Minister).

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Kunwar Guru Narain : and (2) Shri Pratab Chandra Azad.
Motion adopted without a division.

4· **Madhya Pradesh** : *Legislative Assembly* : Discussed on 15th December, 1954.

Motion moved by : Pt. Ravi Shankar Shukla (Chief Minister)

Members who participated in the discussion : 13 (excluding the Mover), namely : (1) Shri Brajlal Varma ; (2) Shri Macherashe Awari ; (3) Shri Jawalaprasad ; (4) Shri Khannalal Jain ; (5) Shri Ganga Prasad Upadhyaya ; (6) Thakur Niranjan Singh ; (7) Syed Gyasuddin Khazi ; (8) Shri Mahesh Dutt Mishra ; (9) Smt. Radhadevi Goenka ; (10) Shri Mahadevi Tukaramjee Thakore ; (11) Shri Sashi Niyogi ; (12) Shri Govind ad Sharma ; and (13) Shri Brijlal Biyani.
Motion carried by 86 votes as against 19.

5. **PEPSU** : *Legislative Assembly* : Discussed on 15th December, 1954.

Motion moved by : Col. S. Raghbir Singh (Chief Minister).

Amendment moved by Shri Surendra Nath Khosla. After some discussion the amendment was negatived by 31 votes as against 21.

Members who participated in the discussion : 5 (excluding the Mover). namely : (1) Shri Hansraj Sharma ; (2) Shri Surendra Nath Khosla ; (3) Sathi Jangir Singh Joga ; (4) Baba Harnam Singh and (5) Sardar Jangir Singh Fagguwalian.
Motion carried without a division.

6. **Bihar** : *Legislative Assembly* : Discussed on 15th, 16th and 17th December, 1954.
Motion moved by Shri A.N. Sinha.

Members who participated in the discussion : 24 (excluding the Mover), namely : (1) Shri Nand Kishore Narain ; (2) Shri Jamna Prasad Singh ; (3) Shri Purushottam Chowhan ; (4) Shri Chandrasekhar Singh ; (5) Shri Naval Kishore Prasad Singh ; (6) Shri Ramanand Upadhyaya ; (7) Smt. Manorama Devi ; (8) Shri Kedar Pandey ; (9) Shri Sukhdev Narain Singh Mehta ; (10) Shri Karpuree Thakur ; (11) Shri Sishchand Banerjee ; (12) Shri Mundrika Singh ; (13) Smt. Kethalli Devi ; (14) Shri Durga Prasad Rai ; (15) Shri Mahavir Chaudhuri ; (16) Shri Triveni Kumar ; (17) Shri Sarju Prasad ; (18) Shri Ramanand Tiwari ; (19) Shri Krishna Gopal Das ; (20) Shri Murali Manohar Prasad ; (21) Shri Harivamsa Narain Singh ; (22) Shri Dev Narain Yadav ; (23) Thakur Girijanand Singh ; (24) Shri Azad Bihari Dixit.

Mot ion carried by 160 votes as against 47.
Legislative Council : Discussed on 13th, 14th, 15th and 16th December, 1954.

Motion moved by Shri Shah Muhammad Ozair Munemi.

Members who participated in the discussion : 14 (excluding the Mover), namely : (1) Shri Gita Prasad Singh ; (2) Shri Hari Kishan Lal ; (3) Shri Krishna Singh ; (4) Shri Narainji ; (5) Shri Jaidev Prasad ; (6) Shri Brajnandan Prasad : (7) Shri Bihari Lal Verma ; (8) Abdul Hazat Chand ; (9) Shri K.B. Sahay ; (10) Shri Basan Chandra Ghosh ; (11) Saiyid Amin Ahmed ; (12) Shri Anil Kumar Sen ; (15) Shri Ganga Nand Singh ; and (14) Shri Tradib Nath Banerjee.

Motion carried by 32 votes as against 7.

7. **Madras** : *Legislative Assembly* : Discussed on 17th December, 1954.

Motion moved by Shri C. Subramaniam (Minister of Finance and Education).

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri N.K. Palaniswami ; (2) Shri M. Narayna Kurup ; (3) Shri V. Gopala Gounder ; (4) Shri M. Palaniyandi ; (5) Shri T. Ananta Pai ; (6) Shri M.P. Subramaniam ; (7) Dr. K.B. Menon ; and (8) Shri P. Ramamurthy.

Motion carried without a division.

Time taken : 1 hr. 23 mts. (4.35 p.m. to 5.58 p.m.).

Legislative Council : Discussed on 18th and 31st December, 1954.

Motion moved by Shri M. Bhaktavatsalam (Minister for Agriculture).

Members who participated in the discussion : 9 (exclusive of the Mover), namely : (1) Shri K. Balasubramania Ayyar ; (2) Shri E.H. Parameshwaran ; (3) Shri A. Gajapathy Nayagar ; (4) Shri K. Bhasyam ; (5) Shri T. M. Narayanaswami Pillai ; (6) Shri Mohd, Raza Khan ; (7) Shri M.P.

Govindan Nair ; (8) Shri V. Chakkarai Chettiar ; and (9) Dr. V.K. John.

Motion carried without a division. (Initially Shri Chakkarai Chettiar wanted a division but he did not press for it).

Time taken : 1 hr. 38 mts. (11.25 a.m. to 1.03 p.m.

8. **Saurashtra** : *Legislative Assembly* : Discussed on 21st December, 1954.

Motion passed without a division.

9. **West Bengal** : *Legislative Assembly* : Discussed on 17th February, 1955.

Motion moved by Shri B.C. Roy (Chief Minister).

Members who participated in the discussion : (1) Shri Haripada Chatterjee ; (2) Shri Tarapada Bhandopadhyaya ; (3) Shri Subodh Banerjee ; (4) Shri Hemant Kumar Basu ; (5) Shri Sudhir Chandra Ray Chaudhuri ; (6) Shri Ganesh Ghosh ; (7) Shri Sashibindu Bera ; (8) Dr. Rajendra Nath Sen ; and (9) Shri Bankim Mukerjee.

Motion carried by 118 *votes as against 44.*

Time taken : 3 hrs. (3.40 p.m. to 6.40 p.m.).

9. **West Bengal** : *Legislative Council* : Discussed on February 16, 1955.

Motion moved by : Dr. B.C. Roy. (Chief Minister).

Motion adopted without division.

Time taken : 20 mts. (9.40 a.m. to 10 a.m.).

10. **Bombay** : *Legislative Council* : Discussed on 15th February, 1955.

Motion moved by Shri Y.B. Chavan (Minister of Local Government).

Motion carried without a division.

Legislative Assembly : Discussed on 16th February, 1955.

Motion moved by Shri Morarji Desai (Chief Minister).

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri Naushir

C. Barucha ; (2) Shri T.S. Jadhav ; (3) Shri S.M. Josh ; (4) Shri D.A. Deshmukh ; (5) Shri S.A. Kothawala ; (6) Shri G.D. Sane ; (7) Shri B.C. Kamble ; and (8) Shri Vithalrao N. Patil.

Motion was carried by 129 votes as against 15.
Time taken : 4 hrs. (2.30 p.m. to 6 30 p.m.).

11. **Hyderabad** : *Legislative Assembly* : Discussed on 22nd February, 1955.

Motion moved by : Shri B.G. Bindu (Minister for Home, Law and Rehabilitation).

Members who participated in the discussion : 6 (excluding the Mover), namely : (1) Shri Devisingh Chauhan ; (2) Shri V.D. Deshpande ; (3) Shri L.K. Shroff ; etc.

Motion carried by 59 votes as against 40.

12. **Madhya Bharat** : *Legislative Assembly* : Discussed on 23rd and 24th February, 1955.

Motion moved by : Shri Manohar Singh Mehta.

Members who participated in the discussion : 5 (excluding the Mover), namely, (1) Shri Niranjan Verma ; (2) Shri R.V. Bade ; (3) Shri Ballbdas Mahajan ; (4) Shri Vimal Kumar Chordia and (5) Shri P.L. Inamdar.

Motion was carried without a division.

Although the Bombay State Legislature had discussed the motion in respect of the amendment and passed it prior to West Bengal Legislatures, the intimation in that regard was received only after West Bengal's approval.

No. of States in the First Schedule in 1955 : 18 : i.e., (1) Andhra Pradesh ; (2) Assam ; (3) Bihar ; (4) Madhya Pradesh ; (5) Madras ; (6) Mysore ; (7) Orissa ; (8) Punjab ; (9) Rajasthan ; (10) Uttar Pradesh ; (11) West Bengal ; (12) Jammu and Kashmir ; (13) PEPSU ; (14) Saurashtra ; (15) Bombay ; (16) Hyderabad ; (17) Madhya Bharat ; and (18) Travancore-Cochin.

Ratification requirement : *9*

No. of States that ratified the Bill before the Presidential assent : *10.*

No. of States that discussed and ratified the Bill in all : *12.*

No. of States that did not either discuss nor ratify : 6 : (1) Andhra Pradesh ; (2) Assam ; (3) Mysore * (4) Orissa ; (5) Jammu and Kashmir ; and (6) Travancore-Cochin**.

CONSTITUTION (SIXTH AMENDMENT) BILL

1. **West Bengal** : *Legislative Assembly* : Discussed on 11th July, 1956.

Motion moved by Dr. B.C. Roy (Chief Minister).

Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri Sudhir Chandra Roy Chaudhuri ; (2) Dr. Ramendra Nath Sen ; (3) Shri Tarapada Bhandopadhyaya ; and ; (4) Shri Hemanta Kumar Bose.

Motion carried by 122 votes as against 56.

Time taken : 1 hr. 34 mts. (3.38 p.m. to 5.12 p.m.)

Legislative Council : Discussed on 17th July, 1956.

Motion moved by Dr. B.C. Roy (Chief Miniter).

Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri Satya Priya Roy ; (2) Shri Nirmal Chandra Bhatta-

* The State Legislative Council discussed the Bill on 26th February, 1955 a motion by Shri M.P.I. Sastry regarding the status of the Legislatures particularly when presidential assent to Constitution Amendment Bill could be given before the State Legislatures had the opportunity to discuss the Bill.

** Although the State Legislature met on 25th January, 1955 and despite the fact that a telegram was sent by the Ministry of Law to the Law Secretary, Travancore-Cochin on 5th February, 1955 to consider the Bill, it was neither put on the agenda nor discussed.

charya ; (3) Shri Krishna Kumar Chatterjee ; and (4) Shri Janab Abdul Halim.

Motion carried without a division.

Time taken : 1 hr. 31 mts. (9.49 a.m. to 11.20 a.m.).

2. **PEPSU** : *Legislative Assembly* : Discussed on 25th July, 1956.

Motion moved by Shri Brish Bhan (Chief Minister)
Member who participated in the discussion : Sathi Jangir Singh Joga.

Motion carried without a division.

3. **Hyderabad** : *Legislative Assembly* : Discussed on 30th July, 1956.
Motion moved by Shri V.K. Koratkar (Minister of Finance).

Member who participated in the discussion : Shri V.D. Deshpande.

Motion carried without a division.

Time taken : 40 mts. (3.30 p.m. to 4 10 p.m.).

4. **Uttar Pradesh** : *Legislative Assembly* : Discussed on 31st July, 1956.

Motion moved by Dr. Sampurnanand (Chief Minister).

Members who participated in the discussion : 14 (excluding the Mover), namely ; (1) Shri Narain Dutt Tiwari ; (2) Shri Avadhesh Pratap Singh ; (3) Shri Padmanath Singh ; (4) Shri S hiv Narain ; (5) Shri Raj Narain ; (6) Shri Nawal Kishore ; (7) Shri R am Sevak Yadav ; (8) Shri Jeyandra Singh Bisht ; (9) Shri Lal Bahadur Singh ; (10) Shri Tika Ram ; (11) Shri Ram Sunder Pandey ; (12) Shri Genda Singh ; (13) Shri Akbar Husain Khwaja ; and (14) Shri Khub Singh.
Motion carried by 69 Votes as against 13.

Legislative Council : Discussed on 7th August, 1956.

Motion moved by Shri Hafiz Mohd. Ibrahim.

Members who participated in the discussion : 9 (excluding the Mover), namely ; (1) Shri Panna Lal Gupta ; (2) Smt. Savitri Nigam ; (3) Kunwar Guru Narain ; (4) Shri Prabhu Narain Singh ; (5) Shri Kanhaya Lal Gupta ; (6) Shri Sabhapati Upadhyaya ; (7) Shri Pratab Chandra Azad ; (8) Shri Indra Singh Nayal and (9) Shri Bansidar Shukla.

Motion was carried without a division.

5. **Madras** : *Legislative Assembly* : Discussed on 13th August, 1956.

Motion moved by Shri C. Subramaniam.

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Vaikunda Baliga ; and (2) Shri P. Ramamurthy.

Motion carried without a division.

Legislative Council : Discussed on 13th August, 1956.

Motion moved by Shri M.A. Manickavelu.

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri K. Balasubramaniam ; and (2) Shri V.V. Ramaswamy.

Motion carried without a division.

6. **Madhya Bharat** : *Legislative Assembly* . Discussed on 23rd August, 1956.

Motion moved by Shri Manohar Singh Mehta (Minister for Law and Education).

Member who participated in the discussion : Shri R. V. Bade.

Motion was carried without a division.

7. **Saurashtra**: *Legislative Assembly* : Discussed on 22nd August, 1956.

Motion moved by Shri D.T. Dave (Law Minister).

Motion was carried without a division.

8. **Punjab** : *Legislative Assembly* : Discussed on 21st August, 1956.

Motion moved by Shri Pratap Singh Kairon (Chief Minister).

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Sardar Sarup Singh and (2) Pandit Mohan Lal.

Motion was carried without a division.

Legislative Council : Discussed on 27th August, 1956.

Motion moved by Shri Pandit Mohan Lal (Minister of Finance).

Motion was carried without a division.

9. **Madhya Pradesh** : *Legislative Assembly* : Discussed on 28th August, 1956.

Motion moved by Shri Ravi Shankar Shukla (Chief Minister).

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Thakur Niranjan Singh ; (2) Shri Mahadevi Tukaramji Thakarey ; (3) Shri Brajlal Varma ; (4) Shri Ali Hasan Mamdami ; (5) Shri Kashi Ram Tiwari ; (6) Shri Manchersa Awari ; (7) Shri Gobind Prasad Sharma and (8) Shri Mahesh Dutt Mishra.

Motion was carried without a division.

10. **Assam** : *Legislative Assembly* : Discussed on 30th August, 1956.

Motion moved by Shri Motiram Bora.

Member who participated in the discussion : Shri Hareswar Goswami.

Motio 1. was carried without a division.

11. **Andhra Pradesh** : *Legislative Assembly* : Discussed on 13th August, 1956

Motion moved by Shri D. Sanjivayya.

Members who participated in the discussion : 3 (excluding the Mover), namely : (1) Shri V.G. Krishnayya ; (2) Shri R.B. Ramakrishna Raju ; and (3) Shri P. Venkatesharalu.
Motion was carrid without a division.

Legislative Councial : Details not available.

12. **Orissa** ; *Legislative Assembly* : Discussed on 10th September, 1956.

Motion moved by Shri Ganeswar Mahapatra.

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Gokulananda Praharaj ; (2) Shri Radhamath Rath.
Motion carried without a division.

13. **Bihar** : *Legislative Assembly* : Discussed on 20th September, 1956.
Motion moved by Shri K.B. Sahay.

Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri Jumna Prasad Singh ; (2) Shri Nand Kishore Narain ; (3) Shri B.N. Jha ; (4) Shri Mudrika Singh and (5) Shri Jagat Narain Lal.
Motion carried without a division.

Legislative Council : Discussed on 20th September, 1956.

Motion moved by Shri Shah Mohd. Ozair Munemi.

Amendment moved by Shri Basanta Chandra Ghose. The amendment was, however, negatived.
Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Basanta Chandra Ghose ; and (2) Shri Krishna Ballab Sahay.
Motion was carried without a division.

14. **Rajasthan** : *Legislative Assembly* : Discussed on 24th September, 1956.

Motion moved by Shri Ram Kishore Vyas.

Members who participated in the discussion : 6 (excluding the Mover), namely : (1) Shri Baira Singh ; (2) Shri Jawan Singh ; (3) Shri Man Singh Mahar ; (4) Shri Mohan Lal Sukhadia ; (5) Shri Raj Shree Himmatsingh ; and (6) Shri Behru Singh Dantha Ramgad.

Motion adopted without a division.

No. of States on the First Schedule in September, 1956 : 18 (Same as in the case of the previous amendment).

Ratification requirement : 9

No. of States that ratified the Bill at the time of the submission of the Bill to the President : 11.

No. of States that ratified the Bill before the Presidential assent : 12.

No. of States that discussed and ratified the Bill : 14.

No. of States that did not either discuss or ratify the Bill : 4 i.e. (1) Mysore ; (2) Jammu and Kashmir ; (3) Bombay ; and (4) Travancore-Cochin

CONSTITUTION (SEVENTH AMENDMENT) BILL

1. **Rajasthan** : *Legislative Assembly* : Discussed on 24th September, 1956.

   Motion moved by Shri Ram Kishore Vyas.

   Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri Bhairam Singh ; (2) Shri Jawan Singh ; (3) Shri Man Singh Mahar ; (4) Shri Mohan Lal Shukadia ; (5) Shri Raj Shree Himmatsingh.

   Motion carried without a division.

2. **Madras** : *Legislative Assembly* : Discussed on 24th September, 1956.

   Motion moved by Shri C. Subramaniam.

   Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri P.K.

Gopalakrishnan ; (2) Shri P. Ramamurthy ; (3) Dr. K.B. Menon ; and (4) Shri K. Uppi.
Motion carried without a division.

Time taken : 32 mts : (9.38 a.m. to 10.10 a.m.)
Legislative Council : Discussed on 25th September, 1956

Motion moved by Shri M. Bhaktavatsalam.

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Dr. A. L. Mudaliar ; (2) Shri T. Purushotham ; (3) Shri Mohd. Raza Khan ; (4) Shri A.M. Allapichai (5) Shri K. Balasubramaniam ; (6) Shri V.V. Ramaswami ; (7) Dr. V.K. John ; and (8) Shri M.P. Govinda Menon.

Motion carried without division.
Time taken : 1hr. 32 mts (4.10 p.m. to 5.42 p.m.)

Mysore : *Legislative Assembly* : Discussed on 26th September, 1956.

Motion moved by Shri Khadilal Majjappa.

Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri J. Mohamed Imam ; (2) Shri A. Bheemappa Naik ; (3) Shri K. Pattabhiraman ; (4) Shri L. Siddappa ; (5) Shri A. Gopala Gowea ; (6) Shri B.V. Narayana Reddy ; (7) Shri B.K. Kemparaj ; (8) Shri B. Narayanaswamy ; and (9) (name in Kanarese).
Motion carried without a division.

Legislative Council : Discussed on 27th September, 1956

Motion moved by Shri Kadilal Manjappa (Chief Minister).

Members who participated : 4 (excluding the Mover), namely : (1) Shri M.P.L. Shastry ; (2) Shri P. Sitaramiah ; (3) Shri H.R. Abdul Gaffar ; and (4) Shri H.C. Linga Reddy.

Motion adopted without division.

4. **Saurashtra** : *Legislative Assembly* : Discussed on 28th September, 1956.

Motion moved by Shri D.T. Dave (Law Minister).
Motion adopted without division.

5. **Andhra Pradesh** : *Legislative Assembly* : Discussed on 30th September, 1956.

Motion moved by Dr. B. Gopala Reddy (Chief Minister).

Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri V. Gopalakrishnayya ; (2) Shri A. Kaleshwara Rao ; (3) Shri M. Satyanarayana Raju ; (4) Shri M. Rajeshwara Rao ; (5) Shri S. Vemayya ; (6) Shri B. Sankaraiah ; (7) Shri T. Jalayya ; (8) Shri S. Kasi Reddi ; and (9) Shri P. Venkateswarlu.

Motion carried without a division.

Legislative Council : Discussed on 3rd October, 1956.

Details not available.

6. **Punjab** : *Legislative Assembly* : Discussed on 3rd October, 1956.

Motion moved by Shri Pratap Singh Kairon (Chief Minister).

Members who participated in the discussion : 13 (excluding the Mover), namely : (1) Shri Harkrishen Singh Surjeet ; (2) Pandit Shri Ram Sharma ; (3) Sardar Sarup Singh ; (4) Comrade Ramchandra ; (5) Prof. Mota Singh Anandpuri ; (6) Shri Kesheo Das ; (7) Shri Babudayal Sharma ; (8) Sardar Chanan Singh Dhut ; (9) Shri Gopi Chand Gupta ; (10) Shri Mohan Lal Dutta ; (11) Shri Kanyalal Butail ; (12) Shri Baloo ; (13) Sardar Gurbachan Singh Bajwa.

Motion carried without a division.

Legislative Council: Discussed on 5th October, 1956.

Motion moved by Shri Mohan Lal (Finance Minister).

Members who participated in the discussion: 6 (excluding the Minister), namely: (1) Shri A.C. Bali; (2) Shri Ram Chandra; (3) Shri Darbari Lal Gupta; (4) Sardar Ram Dayal Singh; (5) Comrade Ram Kishan; and (6) Sardar Kartar Singh.

Motion carried without a division.

7. **Pepsu**: *Legislative Assembly*: Discussed on 1st October, 1956.

Motion moved by: Details not available.

8. **Bombay**: *Legislative Assembly*: Discussed on 4th, 5th, 6th, 8th and 9th October, 1956.

Motion moved by Shri Morarji Desai (Chief Minister).

Members who participated in the discussion: 20 (excluding the Mover), namely: (1) Shri Naushir C. Barucha; (2) Shri S.G. Warty; (3) Shri D.F. Deshmukh; (4) Shri Y.M. Borote; (5) Shri Y.N. Patel; (6) Shri N.D. Samaji; (7) Shri S.M. Joshi; (8) Shri J.D. More; (9) Shri P.R. Patel; (10) Dr. T.C. Narwane; (11) Shri L.M. Patil; (12) Shri Mansing P. Patel; (13) Shri S. Subramaniam; (14) Shri B.K. Dalvi; (15) Shri Mafatlal D. Patel; (16) Shri G.D. Sane; (17) Dr. Amul M. Desai; (18) Shri M.G. Mane; (19) Shri R.N. Patil and (20) Shri B.D. Baralay.

Motion carried by 144 votes as against 27.

Time taken: 11 hrs. 22 mts., split up as: 4th: 1 hr. 5 mts (3 p.m. to 3.30 p.m. and 6.30 p.m. to 7.05 p.m.); 5th: 1 hr. 12 mts. (2.50 p.m. to 3.30 p.m.

and 6.28 p.m. to 7 p.m.); 6th : 2 hrs. 35 mts. (8.45 a.m. to 9.45 a.m. and 10 a.m. to 11.35 a.m.) ; and 8th : (3 p.m. to 7 p.m.) 4 hrs. and 9th : 2 hrs. 30 mts. (3 p.m. to 5.30 p.m.)

Legislative Council : Discussed on 5th October, 1956.

Motion moved by Shri Dinkerrao N. Desai (Minister for Law and Education).

Members who participated : 8 (excluding the Mover), namely : (1) Shri M.V. Dande ; (2) Shri J.R. Tawade ; (3) Dr. G.S. Khair ; (4) Shri S.L. Ogale ; (5) Shri B.G. Deshpande ; (6) Shri S.L. Benadikar ; (7) Dr. V.D. Sathaze ; and (8) Shri D. S. Sodhi.

Motion carried without a division.

Time taken : 1 hr. 40 mts. (3 p.m. to 4.40 p.m.).

9. **Madhya Bharat :** *Legislative Assembly* : Discussed on 6th October, 1956.

Motion moved by Shri Manohar Singh Mehta (Minister for Education and Law).

Members who participated in the discussion : 8 (excluding the Mover), namely: (1) Shri P.L. Imamdar; (2) Shri R.V. Bade ; (3) Shri B.M. Chordia ; (4) Shri Lakshmi Narain Gupta ; (5) Shri A.L. Masurkar ; (6) Shri Hiralal Sharma ; (7) Shri C. Faizulla ; and (8) Shri Raghu Raj Singh.

Motion was carried without a division.

10. **Madhya Bharat :** *Legislative Assembly* : Motion moved by Pandit Ravi Shankar (Chief Minister).

Amendment moved by Shri Brijlal Verma. The amendment was, however, negatived.

Members who participated in the discussion : 12 (excluding the Mover), namely : (1) Shri Brajlal Verma ; (2) Shri K R. Patil ; (3) Shri Kashi Ram Tiwari ; (4) Shri E.G. Ekote ; (5) Shri M. Avari ;

(6) Shri M.D. Mishra ; (7) Shri Govind Prasad Sharma ; (8) Shri Mahadevi Tukarmji Thakaray (9) Shri D.S. Patil ; (10) Shri Sakji Niyaji ; (11) Shri K.P. Mehrotra ; and (12) Shri P.B. Sadatpure.

Motion carried without a division.

Time taken : 4 hrs. 10 mts. (12 p m. to 1 p.m. and 2.30 p.m. to 5.40 p.m.)

11. **Uttar Pradesh** : *Legislative Council* : Discussed on 8th October. 1956.

Motion moved by Shri Hafiz Mohd. Ibrahim.

Members who participated in the discussion : 19 (excluding the Mover), namely ; (1) Shri Kuuwar Guru Narain ; (2) Shri Pushkar Nath Bhatt ; (3) Shri Pratab Chandra Azad ; (4) Shri Maharajkumar Dr Vijaya of Vijayanagaram ; (5) Smt. Savitri Shyam ; (6) Dr. Ishwari Prasad ; (7) Dr. Bhir Bhan Bhatia : (8) Shri Virendra Swarup ; (9) Shri Kunwar Mahavir Singh · (10) Shri Puranchandra Vidyalankar ; (11) Shri M.J. Mukerjee ; (12) Shri Hriday Narain Sinha ; (13) Shri Shyam Sunder Lal ; (14) Shri Laku Ram Dwivedi ; (15) Shri Inder Singh Vayal ; (16) Shri Kash Nath Pandar ; (17) Smt. Tara Aggarwal ; (18) Shri Panna Lal Gupta ; and (19) Shri Hidayatulla Ansari.

Motion adopted without a division

Legislative Assembly : Discussed on 8th October, 1956.

Motion moved by Dr. Sampurnanand.

Members who participated in the discussion : 7 (excluding the Mover), namely :, (1) Shri Madan Mohan Upadhyaya ; (2) Shri Shiv Nath Kotaj ; (3) Shri Krishna Dutt Paliwal ; (4) Shri Arthur Gryce ; (5) Shri Padam Nath Singh ; (6) Shri Krishna Chandra Sharma ; and (7) Shri Narain Dutt Tiwari.

Motion adopted without division.

12. **Hyderabad** : *Legislative Assembly* : Discussed on 8th and 9th October, 1956.

Motion moved by Shri Gopal Rao Ekote (Minister of Local Government, Education and Parliamentary Affairs)

Members who participated in the discussion : 11 (excluding the Mover), namely : (1) Shri V.D. Deshpande ; (2) Shri Devi Singh Chowhan ; (3) Shri Udavarao Patil ; (4) Shri Rama Rao Auravrangavkar ; (5) Smt. Ashatayee Wagmarel ; (6) Shri B.D. Deshmukh ; (7) Shri L.D. Shroff and 4 others.

Motion adopted without division.

13. **Bihar** : *Legislative Assembly* : Discussed on 4th October, 1956.

Motion moved by Shri Krishna Ballab Sahay.

Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri Sushil Kumar Bhage ; (2) Shri Jamuna Prasad Singh ; (3) Shri Ignesh Kujur ; and (4) Shri Chanaka Hembron.
Motion carried by 120 votes as against 40.

Legislative Council : Discussed on 8th October, 1956.

Motion moved by Shri Krishna Ballab Sahay.

Members who participated in the discussion : 7 (excluding the Mover), namely : (1) Shri Rai Brijraj Krishna ; (2) Shri Abdul Hayat Chand ; (3) Shri Rajdev Prasad ; (4) Shri Hari Krishna Lal ; (5) Shri Brajnandan Prasad ; (6) Shri Jagdish Sharma ; and (7) Shri Radha Govind Prasad.

Motion carried without a division.

No. of States in the First Schedule as in December, 1957 : 18
(Same as in the previous cases)

No. of States that had ratified the Bill at the time of submission of the Bill to the President: 13.

No. of States that did not ratify or discuss the Bill : 5, namely : (1) West Bengal* ; (2) Assam** ; (3) Travancore-Cochin ; (4) Orissa ; (5) Jammu & Kashmir.

CONSTITUTION (THIRTEENTH AMENDMENT) BILL

1. **Kerala** : *Legislative Assembly* : Discussed on 16th October, 1962.

Motion moved by Shri P.T. Chacko (Minister of Home Affairs) & seconded by Shri K.A. Damodara Menon (Minister for Industries).

Members who participated in the discussion: 4 (excluding the Mover), namely : (1) Shri C. Achuta Menon ; (2) Shri E.P. Gopalan ; (3) Shri P. Narayanan Thampi ; and (4) Shri R. Shankar (Chief Minister).

Motion adopted without a division.

Time taken : 1 hr. (9.15 a.m. to 10.15 a.m.)

2. **Rajasthan** : *Legislative Assembly* : Discussed on 22nd October, 1962.

Motion moved by Shri Mathuradas (Home Minister).

Members who participated in the discussion : 5 (excluding the Minister). namely : (1) Shri Maharawal Shree Lakshman Singh ; (2) Shri Rao Shree Narain Singh ; (3) Shri Rama Kishan ; (4) Shri Murali Dhar Vyas ; and (5) Shri Jai Kishan Sharma.

Motion adopted without a division.

* Stated that a special session of the Legislature will not be possible to be summoned as to ratify the Bill by 15th October as required.

** Expressed her inability to ratify the Bill. Wanted the Government of India to give an assurance that Art. 170 would be again amended mentioning about autonomous Districts of Assam.

States were requested to ratify by 15th October, 1956.

3. **Jammu and Kashmir** : *Legislative Assembly* : Discussed on 22nd October, 1962.

Motion moved by Shri Dina Nath Mahajan (Law Minister) and seconded by Shri Mir Qasim (Revenue Minister).

Motion adopted without a division.

Legislative Council : Discussed on 29th October, 1962.

Motion moved by Shri Dina Nath Mahajan and seconded by Shri G.L. Dogra (Finance Minister).
Motion carried without a division.

4. **Uttar Pradesh** : *Legislative Assembly* : Discussed on 2nd November, 1962.

Motion moved by Shri Hargovind Singh (Planning Minister).
Motion adopted without a division :

Legislative Council : Discussed on 24th October, 1962.
Motion moved by Shri Hargovind Singh.
Motion adopted without a division.

5. **Madras** : *Legislative Assembly* : Discussed on 31st October, 1962.

Motion moved by Shri M. Bhaktavatsalam (Finance Minister).
Members who participated in the discussion : 6 (excluding the Mover), namely : (1) Shri M. Kalyanasundaram : (2) Shri J. Muthu Gaunder ; (3) Shri V. Shankaran ; (4) Shri S. Ganesan ; (5) Shri V. Krishnamurthi ; and (6) Shri P.N.R. Lakshmikantham.
Motion adopted without a division.

Legislative Council : Discussed on 2nd November, 1962.
Motion moved by Shri R. Venkataraman (Minister for Industries).
Motion adopted without a division.

6. **Punjab** : *Legislative Assembly* : Discussed on 2nd November, 1962.

Motion moved by Shri Gopichand Bhargava (Finance Minister).

Motion adopted without a division.

Legislative Council : Discussed on 9th November, 1962.

Motion moved by Shri Gopichand Bhargava.

Shri Kishan Lal spoke on the motion.

Motion adopted without a division.

7. **West Bengal** : *Legislative Assembly* : Discussed on 20th November, 1962.

Motion moved by Shri Ishwar Das Jalan.

Details not available.

Legislative Council : Discussed on 22nd November, 1962.

Motion moved by Shri Ishwar Das Jalan.

Details not available.

8. **Maharashtra** : *Legislative Assembly* : Discussed on 21st November, 1962.

Motion moved by Shri M.S. Kannamwar (Chief Minister).

Motion adopted without a division.

Legislative Council : Discussed on 27th November, 1962.

Motion moved by Shri P.K. Savant (Minister for Home).

Members who participated in the discussion : (excluding the Mover), namely : (1) Shri V.B. Gogte ; (2) Shri S. Vyas ; (3) Shri Shivaji Patel ; (4) Shri H.B. Meda ; (5) Shri D.V. Deshpande ; (6) Shri M.B. Harnis ; (7) Shri R J. Chaudhari ; and (8) Shri R.B. Ghorpade.

Motion adopted by taking of count of members standing on their seats : 34 as against 8.

9. **Mysore :** *Legislative Assembly* : Discussed on 5th December, 1962.

Motion moved by Shri S. Nijalingappa (Chief Minister).

Motion adopted unanimously.

Legislative Council : Discussed on 7th December, 1962

Motion moved by Shri S. Nijalingappa (Chief Minister).

Members who participated in the discussion : 3 (excluding the mover), namely : (1) Shri M.P. Eashwaran ; (2) Shri M.P.L. Shastry and (3) Shri Harnabally Ramaswamy.

Motion adopted without a division

10. **Bihar :** *Legislative Assembly* : Discussed on 5th December, 1962.

Motion moved by Shri Abdul Gafur.

Member who participated in the discussion : Shri Kam Dev Singh.

Motion adopted without a division.

Legislative Council : Discussed on 5th December, 1962.

Motion moved by Shri Lokesh Nath Jha (Dy. Minister).

Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri Hari Kishan Lal ; (2) Shri Bhola Prasad Singh ; (3) Shri Ram Lakhan Pandey ; (4) Shri Jagdish Sharma ; (5) Shri Ram Vilas Sharma ; (6) Shri Bandan Rai Verma ; (7) Shri Vidhya Kar Kavi ; (8) Shri Pashu Pati Singh Prabal ; and (9) Shri Indra Kumar.

Motion adopted without a division.

11. **Andhra Pradesh** : *Legislative Assembly* : Discussed on 14th December, 1962.

Motion moved by Shri Sanjiva Reddy (Chief Minister).

Members who participated in the discussion : 3 (excluding the Mover), namely : (1) Shri Visweshwara Rao : (2) Shri V. Gopalakrishnaiah ; and (3) Shri G. Lachamma.

Motion adopted without a division

Legislative Council : Discussed on 15th December, 1962.

Motion moved by Shri N. Sanjiva Reddy (Chief Minister).

Motion adopted without a division.

12. **Madhya Pradesh** : *Legislative Assembly* : Discussed on 14th December, 1962.

Motion moved by Shri N. Sanjiva Reddi (Chief Minister).

Motion adopted without a division.

13. **Gujarat** : *Legislative Assembly* : Discussed on 19th December, 1962.

No. of States in the First Schedule as in December, 1962 : 15 : (1) Andhra Pradesh ; (2) Assam ; (3) Bihar ; (4) Gujarat ; (5) Kerala ; (6) Madhya Pradesh ; (7) Madras ; (8) Maharashtra ; (9) Mysore ; (10) Orissa ; (11) Punjab ; (12) Rajasthan ; (13) Uttar Pradesh ; (14) West Bengal ; and (15) Jammu and Kashmir.

Ratification requirement : 8.

No. of States that ratified the Bill at the time of submission of the Bill to the President : 10.

No. of States that ratified the Bill before the Presidential assent : 13.

No. of States that did not either discuss or ratify the Bill : 2 : (1) Assam ; and (2) Orissa.

The States were requested to ratify by 10th December, 1962.

CONSTITUTION (FOURTEENTH AMENDENT) BILL

1. **Kerala** : *Legislative Assembly* : Same as in the case of the 13th Amendment Bill.

   Legislative Council : Same as in the case of the 13th Amendment Bill.

2. **Rajasthan** : *Legislative Assembly* : Same as in the case of the 13th Amendment except that the members that participated were : 5 (excluding the Mover), namely: (1) Shri Mehru Singh ; (2) Shri Mukut Bihari Lal ; (3) Shri Kumaranand ; (4) Shri Murali Dhar Vyas ; and (5) Shri Har Datta Singh.

3. **Jammu & Kashmir** : *Legislative Assembly and Legislative Council* : Same as in the case of the 13th Amendment Bill.

4. **U. P.** : (Same as in the case of the 13th Amendment Bill).

5. **Madras** (Same as in the case of the 13th Amendment Bill).

6. **Punjab** : Same as in the case of the 13th Amendment Bill except as below :

   Legislative Assembly : *Members who participated* : 2 (excluding the Mover), namely : (1) Shri Gurnam Singh and (2) Sardar G. S. Dhillon.

   Legislative Council : Nobody participated in the discussion.

7. **West Bengal** (Same as in the case of the 13th Amendment Bill).

8. **Maharashtra** *Legislative Assembly* : (Same as in the case of the 13th Amendment Bill).

   Legislative Council : Same as in the case of the 13th Amendment except in respect of members who participated in the discussion who in this case were : 4 (excluding the Mover) nemely : (1) Shri B.S. Vyas ; (2) Shri D.V. Deshpande ; (3) Shri V.B. Gogte and (4) Smt. Shakuntala Paranjpe.

The motion was adopted without division.

9. **Mysore** (Same as in the case of the 13th Amendment Bill except that in the case of the Legislative Council nobody spoke on the Bill).

10. **Bihar** : (Same as in the case of the 13th Amendment Bill).

11. **Andhra Pradesh** (Same as in the case of the 13th Amendment Bill).

12. **Madhya Pradesh** : (Same as in the case of the 13th Amendment Bill) except that the following members participated in the discussion on the Bill, namely : 8 : (1) Shri Haribhaoo Joshi ; (2) Shri Ram Kishore Shukla ; (3) Shri Rameshwar Agnibhoj ; (4) Shri Shakir Ali Khan ; (5) Shri Babulal Paliwal ; (6) Shri Brinda Sahai ; (7) Shri Umrao Singh ; and (8) Shri Ganga Ram Tiwari.

13 **Gujarat** (Same as in the case of the 13th Amendment Bill). Other details as in the case of the 13th Constitution Amendment Bill.

The Constitution (Thirteenth Amendment) Bill and The Constitution (Fourteenth Amendment) Bill were considered on the same dates by the Legislatures of the States, one after the other.

CONSTITUTION (FIFTEENTH AMENDMENT) BILL

1. **Andhra Pradesh** : *Legislative Assembly* : Discussed on 28th July, 1963.

Motion moved by Shri K. Brahmananda Reddy on 22nd July, 1963.

Members who participated in the discussion : 7 (excluding the Mover), namely : (1) Shri R. Ayyappa Reddy ; (2) Shri C. D. Naidu ; and five others.

Shri V. Gopalakrishnaiyya and Shri P. Venkateshwarulu pressed for division.

(The members were generally opposed to Clause 10 relating to Article 311).

Motion carried by 86 votes as against 37.

Legislative Council : Discussed on 27th and 29th July.

Motion moved by Shri K. Brahmananda Reddy.

Amendment moved by Shri Ch. Parshuram (the amendment was however, negatived.)

Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri Maqdoom Mohiuddin ; (2) Shri Ch. Parsuram Naidu ; (3) Shri N. Somayajul ; (4) Shri T.S. Rama Rao ; (5) Prof. Haroon Khan Sherwani ; (6) Shri A. Sitaram Reddy ; (7) Shri M. Ataur Rahman. (8) Shri R. V. Narasimha Rao ; and one other.

Motion adopted without a division.

2. **Madras** : *Legislative Assembly* : Discussed on 6th August, 1963.

Motion moved by Shri M. Bhaktavatsalam (Finance Minister).

Members who participated in the discussion :) 9 excluding the Mover), namely : (1) Smt. T. N. Anandanayaki ; (2) Shri M. Kalyanasundaram ; (3) Shri M.V. Karivengadam ; (4) Shri V. Krishnamurthy ; (5) Shri S. Mahadevan ; (6) Shri Matha Gowder ; (7) Shri V. Shandaran ; (8) Shri P. V. Shanmugam ; and (9) Shri G. Venkataraman.

Motion adopted without a division.

Legislative Council : Discussed on 7th August, 1963.

Motion moved by Shri R. Venkataraman (Minister for Industry).

Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri S. T. Adityan ; (2) Shri K. Anbazhagan ; (3) Shri K. Balasubramania Iyer ; (4) Shri A. Gajapathy Nayagar ; (5) Dr. A. L. Mudaliar ; (6) Shri M. Rajah Iyer ; (7) Shri S. K. Sambandam ; (8) Shri M. Seshachariar ; and (9) Shri T. P. Srinivasavaradhan.

Motion adopted without a division.

3. **Rajasthan** : *Legislative Assembly* : Discussed on 22nd August, 1963.

Motion moved by : Shri Mathuradas Mathur (Vidhi Mantri).

Point of order raised by Shri Satish Chandra Agarwal.

Members who participated : 6 (excluding the Mover), namely : (1) Shri Durgalal Bhatdar ; (2) Shri Yogendra Nath Handa ; (3) Shri Murlidhar Vyas; (4) Shri Kedar Nath; (5) Shri Krishna Kumar Goyal ; and (6) Shri Jai Kishan Sharma.

Motion adopted without division.

4. **Assam** : *Legislative Assembly* : Discussed on 28th August, 1963.

Motion moved by : Shri Fakhruddin Ali Ahmad (Min. of Law). Shri Lakshmi Prasad Goswami participated in the discussion.

Motion adopted without a division.

5. **Mysore** : *Legislative Assembly* : Discussed on 10th September, 1963.

Motion moved by : Shri S. Nijalingappa.

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri Sivappa ; (2) Shri G.V. Gowda ; (3) Shri Ganji Veerappa ; (4) Shri V.S. Patil ; (5) Shri K.N. Ranganath ; and three others.

Motion adopted without a division.

Legislative Council : Discussed on 9th and 10th September, 1963.

Motion moved by : Shri M.V. Rama Rao (Minister for Law).

Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri M.P. Eswarappa ; (2) Shri M C. Narasimhan ; (3) Shri J.B.

Mallaradhya ; (4) Shri M.P.L. Shastry ; and (5) Shri S. Mukunda Rao.

Motion adopted without a division.

6. **Punjab** : *Legislative Assembly* : Discussed on 9th September, 1963.

Motion moved by : Dr. Gopichand Bhargava (Finance Minister).

Members who participated in the discussion : 7 (excluding the Mover), namely : (1) Sardar Gurnam Singh ; (2) Sardar Gurbax Singh ; (3) Babu Bachhan Singh ; (4) Pandit Chiranji Lal Sharma ; (5) Shri Chand Ram ; (6) Shri Mangal Sain and (7) Shri Mohan Lal (Home Minister).

Motion carried without a division.

Time taken : 57 mts.

Legislative Council : Discussed on 9th September, 1963

Motion moved by : Dr. Gopichand Bhargava.

Members who participated in the discussion : 3 (excluding the Mover), namely : (1) Shri Desh Raj ; (2) Shri Krishan Lal ; and (3) Prof. Sher Singh.

Motion adopted without a division.

7. **Kerala** : *Legislative Assembly* : Discussed on 11th September, 1963.

Motion moved by : Shri P.T. Chacko (Min. of Home Affairs).

Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri K. Chandrasekharan ; (2) Shri K. Bala Krishna Menon ; (3) Shri P. Balachandra Menon ; and two others.

Motion adopted without a division.

8. **West Bengal** : *Legislative Assembly* :

Details not available.

Legislative Council :

Details not available.

9. **Gujarat** : *Legislative Assembly* : Discussed on 9th September, 1963.

Details not available.

10. **Orissa** : *Legislative Assembly* : Discussed on 27th September, 1963.

Motion moved by : Shri Ramachandra Ram.

Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri Harihar Patel ; (2) Shri Brundaban Tripathy ; (3) Shri Nityananda Mahapatra ; (4) Shri Nilamani Routray ; and one other member.

Motion adopted without a division.

11. **Jammu & Kashmir** : *Legislative Assembly* : Discussed on 1st October, 1963.

Details not available.

Legislative Council : Discussed on 12th October, 1963.

Details not available

12. **Uttar Pradesh** : *Legislative Council* : Discussed on 26th September, 1963.

Details not available.

Legislative Assembly : Discussed on 25th September, 1963.

Motion moved by : Shri Mahavir Prasad Srivastava (Social Welfare Minister).

Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Shri Bhagwan Sahai ; and (2) Shri Raksha Pal Singh.

Motion adopted without a division.

No. of States in the First Schedule : Same as in the previous case.

Ratification requirement : 8.

No. of States that ratified the Bill at the time of the submission of the Bill to the President : 8.

No. of States that ratified the Bill before the Presidential assent : 12.

(Most of the State Legislatures considered the 15th and 16th Amendments together as they were sent to the States together on the same date by the Ministry of Law, Govt. of India).

No. of States that did not either discuss or ratify the Bill : 3 (i.e.) (1) Madhya Pradesh ; (2) Bihar ; and (3) Maharashtra

*The Maharashtra State Legislatures would have ratified the Bill if sufficient number of copies of the proceedings of the discussion on the Bill in the Parliament had been made available to them. The Government of India in their reply to the request for more copies wrote that it might not matter much even if the Maharashtra State Legislatures did not ratify the Bill. The Government of India was sure of getting the necessary number of States to ratify the Bill. Besides there was the non-availability of copies of the proceedings and that it was difficult to get more copies printed at short notice.

The Government of India originally desired that the State Legislatures ratified the Bill before the end of May. But as several States expressed their inability to convene special sessions of their legislatures because of the expenditure involved and that it would only be possible to get the Bills ratified in their September-October sessions, the Government of India in their letter dated 9th September, 1963 requested the State Governments to ensure that the Bill was got ratified by the State Legislatures as early as possible in the month of September itself.

CONSTITUTION (SIXTEENTH AMENDMENT) BILL

1. **Andhra Pradesh** : *Legislative Assembly* : Discussed on 28th July, 1963. Discussed along with the Constitution Fifteenth Amendment Bill but put to vote separately.

   Motion was carried without a division.

   Legislative Council : Discussed on 27th and 29th July. Discussed along with the Constitution Fifteenth Amendment Bill.

   Motion was adopted without a division.

2. **Madras** : *Legislative Assembly* : Discussed on 6th and 7th August, 1963.

Motion moved by : Shri M. Bhaktavatsalam (Chief Minister).

Members who participated in the discussion : 17 (excluding the Mover), namely : (1) Smt. T.N. Ananthanayaki ; (2) Shri A.S. Dhakshinamoorthy Gounder ; (3) Shri S. Ganesan ; (4) Shri K.S.G. Haja Sheriff ; (5) Shri M. Kalyanasundaram ; (6) Shri M. Karunanidhi ; (7) Smt. C. Kolandai Ammal ; (8) Shri K.T. Kosalram ; (9) Shri K.A. Mathialagan ; (10) Shri K.R. Nallasivam ; (11) Shri V.R. Nedunchezhiyan ; (12) Shri K.P. Palani ; (13) Smt. Rajathi Kunjithapatham ; (14) Shri V. Shankaran ; (15) Shri M.S. Selvarajan ; (16) Shri R.V. Sawaminathan ; and (17) Shri G. Venkataraman.

Motion adopted without a division.

Legislative Council : Discussed on 8th August, 1963.

Motion moved by : Shri R. Venkataraman (Min. for Industries).

Members who participated in the discussion : 12 (excluding the Mover), namely : (1) Shri K. Anbazhagan ; (2) Shri K. Balasubramania Ayyar ; (3) D.A. Chatambaranathan ; (4) Shri A. Gajapathy Nayanar ; (5) Shri M. Rajah Iyer ; (6) Shri K. Ramadoss ; (7) Shri O.P. Ramaswamy Reddiar ; (8) Shri S.K. Sambandan ; (9) Smt. Saraswathi Pandurangam ; (10) Dr. T.V. Vanandam ; (11) Shri T.P. Srinivasavaradhan ; and (12) Shri M. Subbiah Chettiar.

Motion adopted without a division.

3. **Rajasthan** : *Legislative Assembly* : Discussed on 22nd August, 1963.

Motion moved by : Shri Mathuradas Mathur. Shri Krishna Kumar Goyal spoke on the motion.

Motion adopted without a division.

4. **Assam** : *Legislative Assembly* : Discussed on 28th August, 1963.

Motion moved by : Shri Fakhruddin Ali Ahmad (Min. of Law).

Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri Hoover Hynniewta ; (2) Shri Dulal Chandra Barua ; (3) Shri Mohammad Umaruddin ; and (4) Shri Bimla Prasad Chaliha.

Motion adopted without a division.

5. **Mysore** : *Legislative Assembly* : Discussed on 10th September, 1963.

Motion moved by : Shri S. Nijalingappa (Chief Minister).

Members who participated in the discussion : 4 (excluding the Mover), namely : (1) Shri S.M. Krishna ; (2) Shri V.S. Patil ; (3) Shri G.V. Gowda ; one other member.

Motion was adopted without a division.

Legislative Council : Discussed on 10th and 11th September.

Motion moved by : Shri M.V. Rama Rao (Minister of Law) on behalf of the Chief Minister.

Point of Order raised by : Shri M.C. Narasimhan. It was, however, ruled out of order by the Deputy Chairman.

Members who participated in the discussion : 8 (excluding the Mover), namely : (1) Shri M.P. Eswarappa ; (2) Shri J B. Mallaradhya ; (3) Shri M.P.L. Sastry ; (4) Shri M.C. Narasimhan ; and four others.

6. **Punjab** : *egislative Assembly* : Discussed on 9th September, 1963.

Motion moved by : Shri Mohan Lal (Home Minister). Shri Gurnam Singh participated in the discussion.

Motion carried without a division.

Legislative Council : Discussed on 9th September, 1963.

Motion moved by : Dr. Gopi Chand Bhargava.
Members who participated in the discussion : 2 (excluding the Mover), namely : (1) Prof. Sher Singh ; and (2) Shri Krishan Lal.

Motion carried without a division.

7. **Kerala** : *Legislative Assembly* : Discussed on 11th and 12th September, 1963.

Motion moved by : Shri P T. Chacko (Minister for Home Affairs).
Members who participated in the discussion : 9 (excluding the Mover), namely : (1) Shri T.C. Narayanan Nambiar ; (2) Shri E.P. Gopalan ; (3) Shri C.M. Stephen : (4) Shri K. Chandrasekharan ; (5) Shri P. Balachandra Menon ; and four others.

Motion was adopted without a division.

8. **West Bengal** : *Legislative Assembly* : Details not available.

Legislatlve Council : Detail not available.

9. **Gujarat** *Legislative Assembly* : Disçussed on 9th September, 1963.

Motion adopted without a division.

10. **Uttar Pradesh** : *Legislative Assembly* : Discussed on 25th September, 1963.

Motion moved by: Shri Mahavir Prasad Srivastava.

Shri Raksha Pal Singh participated in the discussion.

Motion adopted without a division.

Legislative Council : Discussed on 26th September, 1963.

Motion adopted without a division.

11. **Orissa :** *Legislative Assembly* : Discussed on 27th September, 1963.

Motion moved by : Shri Ramchandra Ram.

Members who participated in the discussion : 5 (excluding the Mover), namely : (1) Shri Harihar Patel ; (2) Shri Brundaban Tripathy ; (3) Shri Nityananda Mahapatra ; (4) Shri Nilamani Routray (Minister) ; and one other member.

Motion adopted without a division.

12. **Jammu & Kashmir :** *Legislative Assembly* : Discussed on 1st October, 1963.

Motion adopted without a division.

Legislative Council : Discussed on 1st October, 1963.

Motion adopted without a division.

13. **Pondicherry :** *Legislative Assembly* : Discussed on 5th October, 1963.

Motion adopted without a division.

(Other details regarding the No. of States in the First Schedule, Ratification requirement, etc., are the same as for the Constitution Fifteenth Amendment Bill.)

CONSTITUTION (TWENTY SECOND AMENDMENT) BILL

1. **Madhya Pradesh :** *Legislative Assembly* : Discussed and adopted the motion on 8th July, 1969.

2. **West Bengal :** *Legislative Council* : Discussed and adopted the motion on 11th July, 1969.

Legislative Assembly : Discussed and adopted the motion on 16th July, 1969.

3 **Maharashtra** : *Legislative Assembly* : Discussed and adopted the motion on 29th July, 1969.

Legislative Council : Discussed and adopted the motion on 31st July, 1969.

4. **Uttar Pradesh** : *Legislative Council* : Discussed and adopted the motion on 30th July, 1969.

Legislative Assembly : Discussed and adopted the motion on 20th August, 1969.

5. **Assam** : *Legislative Assembly* : Discussed and adopted the motion on 6th August, 1969.

6. **Kerala** : *Legislative Assembly* : Discussed and adopted the motion on 7th August, 1969.

7. **Nagaland** : *Legislative Assembly* : Discussed and adopted the motion on 12th August, 1969.

8. **Haryana** : *Legislative Assembly* : Discussed and adopted the motion on 14th August, 1969.

9. **Rajasthan** : *Legislative Assembly* : Discussed and adopted the motion on 25th August, 1969.

10. **Gujarat** *Legislative Assembly* : Discussed and adopted the motion on 26th August, 1969.

11. **Mysore** : *Legislative Assembly* : Discussed and adopted the motion on 16th August, 1969.

Legislative Council : Discussed and adopted the motion on 26th August, 1969.

12. **Tamil Nadu** : *Legislative Assembly* : Discussed and adopted the motion on 27th August, 1969.

Legislative Council : Discussed and adopted the motion on 28th August, 1969.

States that d not ratify the Bill : Andhra Pradesh, Bihar, Jammu and Kashmir, Orissa and Punjab.

No. of States in the First Schedule : Same as in the previous case.

Ratification requirement : 9 States.

No. of States that ratified the Bill at the time of submission of the Bill to the President for his assent : 9.

No. of States that ratified the Bill before the Presidential assent : 12.

It is to be noted that although the 9th State had ratified the Bill by the 25th August, 1969, the Presidential assent was given only on 30th September, 1969.

(Details of discussions in the States' Legislatures are not available for inclusion in the synopsis).

G. Table showing the Time of Submission and Ratification of Amendments

A. INDIA

Amdt. Nos.	Date of Final Passage in Parliament.	Ratification Requirement.	Date Consummated.	Time Yrs.	Elapsed Months.	Days.	Notice of Validity.
Second	19th December, 1952	9	17th March, 1953	0	2	29	1st May, 1953
Third	28th September, 1954	9	16th February, 1955	0	4	18	22nd Feb., 1955
Sixth	31st May, 1956	9	28th August, 1956	0	2	28	11th Sept., 1956
Seventh	11th September, 1956	9	6th October, 1956	0	0	25	14th Oct , 1956
Thirteenth	7th September, 1962	8	21st November, 1962	0	2	14	28th Dec., 1962
Fourteenth	7th September, 1962	8	21st November, 1962	0	2	14	28th Dec., 1962
Fifteenth	9th May, 1963	8	11th September, 1963	0	4	2	5th Oct., 1963
Sixteeth	9th May. 1963	8	11th September, 1963	0	4	2	5th Oct., 1963
Twenty Second	30th April, 1969	9	25th August, 1969	0	3	25	30th Sept , 1969

(A noteworthy feature in respect of ratification was that the Union Government started the practice of specifying dates within which the States were to ratify constitutional amendments that were sent to them from the Seventh amendment onwards). The date of consummation mentioned in the above table is not the date specified but the date on which the required number of States ratified.

B. UNITED STATES OF AMERICA

Amdt. Nos.	Date Proposed.	Ratification requirement.	Date consummated.	Time Elapsed Yrs.	Months.	Days.	Notices of Validity.
1-10	25th September, 1789	11	15th December, 1791	2	2	20	None
11	4th March, 1794.	12	7th February, 1795	0	11	3	8th January,1798
12	12th December, 1803	13	27th July, 1804	0	7	15	15th Sept., 1804
13	1st February, 1865	27	6th December, 1865	0	10	5	18th Dec., 1865
14	16th June, 1866	28	9th July, 1868	2	0	23	28th July, 1868
15	27th February, 1869	28	3rd February, 1870	0	11	7	30th March, 1870
16	12th July, 1909	36	3rd February, 1913	3	6	22	25th Feb , 1913
17	16th May, 1912	36	8th April, 1913	0	10	23	13th May, 1913
18	17th December, 1917	36	16th January, 1919	1	1	0	28th Jan., 1919
19	5th June, 1919	36	18th August, 1920	1	2	13	26th Aug., 1920
20	2nd March, 1932	36	23rd January, 1933	0	10	21	6th Feb., 1933
21	20th February, 1933	36	5th December, 1933	0	9	15	5th Dec., 1933
22	21st March, 1947	36	27th February, 1951	3	11	2	3rd March, 1951
23	16th June, 1960	38	29th March, 1961	0	9	13	3rd April, 1951
24	24th September, 1963	38	24th January, 1964	0	4	0	4th Feb., 1964

H. LIST OF PRIVATE MEMBERS' CONSTITUTION AMENDMENT BILLS (LAPSED/WITHDRAWN OR PENDING)

I. LOK SABHA

Serial No.	Names of the Movers	Date of Introduction with Bill Number	Amendment of arts. or article sought	Remarks
1	2	3	4	5
1.	Smt. Khongmen (Autonomous Dts-Res. Sch. Tribes.)	3rd September 1954 (No. 36 of 1954)	Sixth Schedule	Lapsed
2.	Shri Raghunath Singh (Varanasi)	(No. 50 of 1956)	Article 107	,,
3.	Shri K.K. Basu (Diamond Harbour)	7th September 1956 (No. 51 of 1956)	Arts. 31, 291 and 314	,,
4.	Shri Raghunath Singh (Varanasi)	9th August 1957 (No. 40 of 1957)	Article 58	,,
5.	Shri M.L. Dwivedi	(No. 58 of 1957)	Arts. 100 and 189	,,
6.	Shri Naushir Bharucha (East Khandesh)	2nd May 1958 (No. 38 of 1958)	Arts 143	,,
7.	Shri Subimal Ghosh (Burdwan)	5th September 1958 (No. 20 of 1958)	Arts, 134, 136 and 145	,,
8.	Shri Balakrishna Wasnik (Bhandara Res. Sch. Castes)	22nd August 1958 (No. 68 of 1958)	Article 136	,,

1	2	3	4	5
9.	Shri C.K Bhattacharya	(No. 97 of 1958)	Article 343	,,
10.	Shri Rajendra Singh (Chapra)	12th December 1958 (No. 101 of 1958)	Preamble and subst. of new art. for article 38.	,,
11.	Shri Atal Behari Vajpayee	29th April, 1960 (No. 3 of 1969)	Eighth Schedule	,,
12.	Shri Sivamurthi Swami (Kuppal)	6th December, 1963 (No. 54 of 1963)	Arts 74, 75, 352 and 353	,,
13.	Shri Yashpal Singh	14th February, 1964 (No. 8 of 1964)	Article 352	,,
14.	Shri C.K. Bhattacharya (Raiganj)	13th March, 1964 (No. 11 of 1964)	Articles 80 and 171	,,
15.	Shri Abdul Ghani Goni (Nominated J & K)	28th March, 1964	Omission of art. 37	,,
16.	Shri P.R. Patel (Patan)	10th April, 1964 (No. 21 of 1964)	Article 217	,,
17.	Shri Prakash Vir Shastri (Bijnor)	24th April, 1964 (No. 38 of 1964)	Article 85	,,
18.	Shri S.N. Chaturvedi	11th September, 1964 (No. 47 of 1964)	Article 316	,,
19.	Shri Panna Lal Barupal	11th September, 1964 (No. 48 of 1964)	Omission of Art. 331	,,
20.	Shri V.C. Parashar	11th September, 1964 (No 49 of 1964)	Article 295	,,
21.	Shri Krishnapal Singh	11th September, 1964 (No. 60 of 1964)	Arts. 75, 153 and 164	,,

1	2	3	4	5
22.	Shri H.V. Kamath (Hoshangabad)	25th September 1964 (No. 61 of 1964)	Insertion of new art. 368A	,,
23.	Shri Balkrishna Wasnik	20th November 1964 (No. of 1964)	Seventh Schedule	,,
24.	Shri Yashpal Singh	19th February, 1965 (No. 80 of 1964)	Article 368	,,
25.	Shri C.K. Bhattacharya (Raiganj)	19th February, 1965 (No. 87 of 1964)	Arts. 124 and 220	,,
26.	Shri Sivamurthi Swami	19th March, 1965 (No. 11 of 1965)	Arts. 105 and 194	,,
27.	Shri S.M. Banerjee	19th March, 1965 (No. 13 of 1965)	Article 120	,,
28.	Shri S.M. Siddiah	15th April, 1965 (No. 27 of 1965)	Insertion of new art. 329A	,,
29.	Dr. L.M. Singhvi	30th April, 1965 (No 31 of 1965)	Eighth Schedule	,,
30.	Shri H.V. Kamath	30th April, 1965 (No 32 of 1965)	Article 356	,,
31.	Shri Vishwa Nath Pandey	19th August, 1965 (No. 33 of 1965)	Article 134	,,
32.	Shri Yashpal Singh	19th August, 1965 (No. 52 of 1965)	Arts. 117 and 207	,,
33.	Dr. Sarojini Mahishi	19th November, 1965 (No. 73 of 1965)	Cmission of Art. 35A	,,

1	2	3	4	5
34.	Shri Krishna Deo Tripathi	19th November, 1965 (No. 75 of 1965)	Preamble	,,
35.	Shri Madhu Limaye	17th February, 1966 (No. 7 of 1966)	Article 31	,,
36.	Shri Madhu Limaye	17th February, 1966 (No. 8 of 1966)	Article 16	,,
37.	Shri Madhu Limaye	17th February, 1966 (No. 10 of 1966)	Arts. 83 and 172	,,
38.	Shri Krishna Dev Tripathi	17th February, 1966 (No. 88 of 1965)	Seventh Schedule	,,
39.	Shri Naval Prabhakar	1st April, 1966 (No. 21 of 1966)	Article 239A	,,
40.	Shri H.V. Kamath	15th April, 1966 (No. 31 of 1966)	Arts. 59, 66 & 158 and insertion of new arts 93A, 178A & 182A	,, ,,
41.	Shri Kishen Pattnayak	15th April, 1966 (No. 30 of 1966)	Arts. 80, 87 and 176	,,
42.	Shri H.V. Kamath	13th May, 1966 (No. 34 of 1966)	Article 51	,,
43.	Shri Abdul Ghani Gona	13th May, 1966 (No. 38 of 1966)	Eighth Schedule	,,
44.	Shri D.C. Sharma	12th August, 1966 (No. 46 of 1966)	Omission of art. 35A	,,
45.	Shri H.V. Kamath	26th August, 1966 (No. 53 of 1966)	Insertion of new arts. 125A and 221A	,,

1	2	3	4	5
46.	Shri Shree Narayan Das	2nd December, 1966 (No. 78 of 1966)	Art. 324 & Insertion of new art. 324A	,,
47.	Shri H.V. Kamath	2nd December, 1966 (No. 79 of 1966)	Article 370	,,
48.	Shri H.V. Kamath	2nd December, 1966 (No. 80 of 1966)	Article 130	,,
49.	Shri Nath Pai	7th April, 1967 (No. 5 of 1967)	Article 155	Pending
50.	Shri Madhu Limaye	23rd March, 1967 (No. 13 of 1967)	Insertion of new arts. 125A and 221A	,,
51.	Shri Era Sezhiyan	23rd March, 1967 (No. 16 of 1967)	Article 120	,,
52.	Shri Yashpal Singh	7th April, 1967 (No. 29 of 1967)	Article 368	,,
53.	Shri Nath Pai	7th April, 1967 (No. 35 of 1967)	Arts. 105 and 194	,,
54.	Shri S.K. Siddayya	7th April, 1967 (No. 37 of 1967)	Insertion of new art. 339A	,,
55.	Shri Madhu Limaye	26th May, 1967 (No. 50 of 1967)	Article 31	,,
56.	Shri C.K. Bhattacharya	26th May, 1967 (No. 51 of 1967)	Articles 80 ond 171	,,
57.	Shri C.K. Bhattacharya	26th May, 1967 (No. 52 of 1967)	Article 343	,,

1	2	3	4	5
58.	Shri C.K. Bhattacharya	26th May, 1967 (No. 53 of 1967)	Articles 124 and 220	,,
59.	Shri Digvijai Nath	26th May, 1967 (No. 5 of 1967)	Article 48	,,
60.	Shri Yamuna Prasad Mandal	26th May, 1967 (No. 55 of 1967)	Eighth Schedule	,,
61.	Shri Kanwar Lal Gupta	26th May, 1967 (No. 56 of 1967)	Article 152, etc.	,,
62.	Shri Vishwa Nath Pandey	9th June, 1967 (No. 70 of 1967)	Article 13	,,
63	Shri K.R. Ganesh	9th June, 1967 (No. 71 of 1967)	Article 13 and insertion of new arts. 19A, 19B, 368A and 368B	,,
64.	Shri K.R. Ganesh	9th June, 1967 (No. 72 of 1967)	Article 102	,,
65.	Shri Krishna Dev Tripathi	7th July, 1967 (No. 82 of 1967)	Seventh Schedule	,,
66.	Shri Krishna Dev Tripathi	7th July, 1967 (No. 83 of 1967)	Preamble	,,
67.	Shri Prakash Vir Shastri	7th July, 1967 (No. 84 of 1967)	Arts. 217, 227, 229, 230, 232, 233, 234, 237, 320 and the Seventh Schedule	,,
68.	Shri Inder J. Malhotra	7th July, 1967 (No. 94 of 1967)	Eighth Schedule	,,

1	2	3	4	5
69.	Shri Govind Das	7th July, 1967 (No. 95 of 1967)	Article 48 and the Seventh Schedule	,,
70.	Shri Krishna Dev Tripathi	7th July, 1967 (No. 96 of 1967)	Insertion of new article 37A	,,
71.	Shri Shiva Chandra Jha	21st July, 1967 (No. 97 of 1967)	Article 16	,,
72.	Shri Nath Pai	21st July, 1967 (No. 98 of 1967)	Article 93	,,
73.	Shri Samarendra Kundu	4th August, 1967 (No. 105 of 1967)	Omission of art. 358	,,
74.	Shri Samarendra Kundu	4th August, 1967 (No. 106 of 1967)	Omission of arts. 291, 362 and 363	,,
75.	Shri Erasmo De Sequeira	4th August, 1967 (No. 112 of 1967)	New Article for art. 362 and insertion of new art. 359A	,,
76.	Shri Om Prakash Tyagi	4th August, 1967 (No. 114 of 1967)	Article 164	,,
77.	Shri V. Viswanatha Menon	4th August, 1967 (No. 115 of 1967)	Article 311	,,
78.	Shri Erasmo De Sequeira	16th November, 1967 (No. 137 of 1967)	Eighth Schedule	,,
79.	Shri George Fernandes	16th November, 1967 (No 138 of 1967)	Omission of Arts. 291, 362 and 363 and amendment of art. 366	,,
80.	Shri George Fernandes	16th November, 1967 (No. 144 of 1967)	Article 326	,,

1	2	3	4	5
81.	Shri Madhu Limaye	16th November, 1967 (No. 131 of 1967)	Omission of art. 314	,,
82.	Shri Madhu Limaye	16th November, 1967 (No. 148 of 1967)	Article 100	,,
83.	Shri P.K. Deo	16th November, 1967 (No 130 of 1967)	Article 164	,,
84.	Shri S.C. Samantha	16th November, 1967 (No. 133 of 1967)	Amendment of arts. 59, 66 and 158 and insertion of new arts. 93A, 178A and 182A	,,
85.	Shri Raghuvir Singh Shastri	1st December, 1967 (No. 141 of 1967)	Omission of art. 331	,,
86.	Shri Sachindra Nath Maiti	1st December, 1967 (No. 126 of 1967)	Insertion of new arts. 125A and 221A	,,
87.	Shri Shiva Chandra Jha	16th February, 1967 (No. 160 of 1967)	Amendment of arts. 4 & 80 and omission of the Fourth Schedule	,,
88.	Shri Nath Pai	16th February, 1968 (No. 166 of 1968)	Insertion of new article 174A	,,
89.	Shri J.M. Imam	16th February, 1968 (No. 167 of 1968)	Amendment of arts. 343, 345 and 349; omission of arts. 344 and 349; and substitution of new article for article 351.	,,

1	2	3	4	5
90.	Shri Erasmo De Sequeira	16th February, 1968 (No. 1 of 1968)	Amendment of arts. 314 and 351 ; omission of the Eighth Schedule and substitution of new article for article 343.	,,
91.	Shri Madhu Limaye	16th February, 1968 (No. 5 of 1968)	Amendment of arts. 85 and 174	,,
92.	Shri Madhu Limaye	16th February, 1968 (No. 6 of 1968)	Amendment of articles, 74 and 163	,,
93.	H.H. Maharaja Sriraj Megharaj-ji Dhrangadhra	1st March, 1968 (No. 156 of 1967)	Amendment of art. 368	,,
94.	Shri Rabi Ray	1st March, 1968 (No. 3 of 1968)	Amendment of art. 54	,,
95.	Shri Hem Raj	1st March, 1968 (No. 10 of 1968)	Amendment of art. 3	,,
96.	Shri Rabi Ray	1st March, 1968 (No. 12 of 1968)	Amendment of art. 105	,,
97.	Shri Ram Sewak Yadav	14th March, 1968 (No. 8 of 1968)	Amendment of art. 16 and substitution of art. 335	,,
98.	Shri Tridib Chaudhuri	14th March, 1968 (No. 11 of 1968)	Amendment of arts. 75 and 164	,,
99.	Shri Shiva Chandra Jha	29th March, 1968 (No 28 of 1968)	Amendment of article 329	,,
100.	Shri Madhu Limaye	29th March, 1968 (No. 29 of 1968)	Amendment of arts. 75 and 164	,,

1	2	3	4	5
101.	Shri Om Prakash Tyagi	11th April, 1968 (No. 33 of 1968)	Substitution of new article for existing article 220	,,
102.	Shri Era Sezhiyan	11th April, 1968 (No. 34 of 1968)	Amendment of arts. 31A, 168, 290A and the First and Fourth Schedules	,,
103.	Shri M. Narayan Reddy	26th April, 1968 (No. 16 of 1968)	Amendment of art. 217	,,
104.	Shri Srinibas Mishra	26th April, 1968 (No. 37 of 1968)	Amendment of arts. 90, 92, 94, 96, 179, 181, 183 and 185	,,
105.	Shri M. Narayan Reddy	10th May, 1968 (No. 45 of 1968)	Amendment of art. 226	,,
106.	Shri Diwan Chand Sharma	10th May, 1968 (No. 46 of 1968)	Amendment of Seventh Schedule	,,
107.	Shri Madhu Limaye	26th July, 1968 (No. 55 of 1968)	Amendment of article 145	,,
108.	Shri Yashpal Singh	15th November, 1968 (No. 66 of 1968)	Amendment of Seventh Schedule	,,
109.	Shri Yashpal Singh	15th November, 1968 (No. 68 of 1968)	Amendment of article 130	,,
110.	Shri Kameshwar Singh	15th November, 1968 (No. 83 of 1968)	Amendment of articles 75, 164 and 326	,,
111.	Shri Bhola Nath Master	15th November, 1968 (No. 84 of 1968)	Amendment of First Schedule	,,
112.	Shri Maharaj Singh Bharti	15th November, 1968 (No. 98 of 1968)	Amendment of First Schedule	,,

1	2	3	4	5
113.	Shri Bhogendra Jha	29th November, 1968 (No. 90 of 1968)	Amendment of articles 15, 16, 19 and 22	,,
114.	Shri Madhu Limaye	29th November, 1968 (No. 92 of 1968)	Amendment of articles 1 and 3	,,
115.	Shri C.C. Desai	13th December, 1968 (No. 106 of 1968)	Amendment of articles 80 and 171	,,
116.	Shri Bhogendra Jha	13th December, 1968 (No. 112 of 1968)	Amendment of heading of Part IV and article 37	,,
117.	Shri Kanwar Lal Gupta	21st February, 1968 (No. 99 of 1968)	Substitution of article 43	,,
118.	Shri Kanwar Lal Gupta	21st February, 1968 (No. 100 of 1968)	Amendment of articles 75 and 146	,,
119.	Shri Tenneti Viswanathan	21st February, 1969 (No. 2 of 1969)	Amendment of articles 32 and 226	,,
120.	Shri Benoy Krishna Das Chowdhury	21st February, 1969 (No. 3 of 1969)	Amendment of article 240 and the First Schedule	,,
121.	Shri Bhogendra Jha	21st February, 1969 (No. 7 of 1969)	Amendment of Eighth Schedule	,,
122.	Shri Shiva Chandra Jha	21st March, 1969 (No. 22 of 1969)	Amendment of article 280	,,
123.	Shri Shiva Chandra Jha	3rd April, 1969 (No. 26 of 1969)	Amendment of Eighth Schedule	,,
124.	Shri Madhu Limaye	3rd April, 1969 (No. 28 of 1969)	Amendment of article 19	,,
125.	Shri Om Prakash Tyagi	18th April, 1969 (No. 32 of 1969)	Amendment of article 39	,,

S. A note on the question : Is Article 13 a bar to the Amendment of Part III of the Constitution under Article 368

A careful reading of the majority judgment in Golak Nath's case (A.I.R. 1967 S.C. 1643) would reveal that the Judges of the Supreme Court were engaged in a strenuous effort at bringing an amendment of the Constitution, both conceptually and procedurally, within the meaning of law since it was felt that once such a thing was established it would be possible to ensure, through clause (2) of article 13, that Fundamental Rights guaranteed under Part III of the Constitution are not abridged or taken away even by an amendment of the Constitution. The Judges in the aforesaid case, however, felt that the task of co-relating 'law' in article 13(2) with an amendment of the Constitution would not be insuperable as the machinery meant for ordinary legislation was also concerned with the amendment of the Constitution ; and that as under article 12, 'State' included 'Parliament', so 'law' must include a Constitutional Amendment under article 368 also.[1] To achieve this objective, the Court argued that the inclusive definition of 'law' in clause (3) of article 13 took in Constitutional law since if it had been otherwise, an exception would have been made in the

Article 12 reads as follows :

'In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.'

clause itself.[2] They further endeavoured to establish the above contention of theirs by proving that the process of amendment was similar to the legislative process except for the voting requirement which was not of material significance.[3] They even went to the

[2] Clause (3) (a) of article 13 reads as follows :
"law" includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law ;

The majority judgment observed :
'Now, what is law under the Constitution ? It is not denied that in its comprehensive sense it includes constitutional law and the law amending the Constitution is Constitutional law. But article 13 (3) for the purpose of that artlcle gives an inclusive definition. It does not exclude constitutional law. It prima facie takes in constitutional law.'

[3] The observations in this regard are :

(a) "The amendment can be initiated by the introduction of a Bill, it shall be passed by the two Houses, it shall receive the assent of the President. These are well known procedural steps in the process of law-making. We thus find that each of the component units of Parliament is to play its allotted part in bringing about an amendment to the Constitution. We have already seen that Parliament effects amendments of the first class mentioned above by going through the same threefold procedure but with a simple majority. The fact that a different majority in the same body is required for effecting the second and third categories of amendments does not make the amending agency a different body."

(b) "If amendment is intended to be something other than law, the constitutional insistence on the said legislative process is unnecessary. In short, amendment cannot be made otherwise than by following the legislative process. The fact that there are other conditions, such as, a larger majority and in the case of articles mentioned in the proviso a ratification by

extent of establishing that article 368 related to the procedure of amendment alon e and that the power to amend was located elsewhere.[4] The Judges also drew attention to the fact that even if some doubt existed that the term 'law' did not take in 'amendment' that was removed for it was not expressly provided for in article 368 that the rights contained in Part III came within its purview. To substantiate their case that it was even the intention of the framers of the Constitution that the rights enshrined in Part III of the Constitution were meant to be unalterable and could not be taken away or abridged even by an amendment of the Constitution and consequently the term 'law' for the purposes of article 13(2) took in an amendment of the Constitution, the Judges quoted observations made by the architects of the Constitution in the Constituent

legislatures if provided, does not make the amendment any the less a law. The imposition of further conditions is only a safeguard against hasty action or a protection to the States, but does not change the legislative character of the amendment."

(c) "That an amendment is made only by legislative process with or without conditions will be clear if two decisions of the Privy Council are considered in juxta-position. It will be seen from the said judgments that an amendment of the constitution is made only by legislative process with ordinary majority or with special majority, as the case may be. Therefore, amendments either under article 368 or under other articles are made only by Parliament b y following the legislative process adopted by it in making other law. In the premises, an amendment of the Constitution can be nothing but 'law'.

4 (cf) "The article (368) in terms only prescribes various procedural steps in the matter of amendment... The article assumes the power to amend found elsewhere and says that it shall be exercised in the manner laid down therein. The argument that the completion of the procedural steps culminate in the exercise of the power to amend may be subtle but does not carry conviction."

Assembly, particularly that of Pandit Jawaharlal Nehru and Dr. B.R. Ambedkar.[5]

Soon after the judgment was pronounced in the Golak Nath's case, discussions and debates were held within the Parliament and outside it, in all possible forums, to find out if the status accorded to Fundamental Rights by the Supreme Court in the majority judgment in that case was in accord with the scheme of the Constitution.[6] Opinions expressed, by and large, indicated that the majority judgment of the Supreme Court in pronouncing the view that the Chapter on Fundamental Rights was excluded from the purview of article 368 and that the rights contained in Part III could not be abridged or taken away even by an amendment of

5 The Judges, however, felt that much strength could not be had by citing observations from the architects of the Constitution in the Constituent Assembly since there were other observations made by the self-same architects on a different occasion to the contrary. The Judges, hence, hastened to add :

> 'We have referred to the speeches of Pandit Jawaharlal Nehru and Dr. Ambedkar not with a view to interpret the provisions of article 368, which we propose to do in its own terms, but only to notice the transcendental character given to the Fundamental rights by two of the important architects of the Constitution."

6. (Cf.) The debate on Nath Pai's Constitution (Amendment) Bill, 1967 which was discussed in the Lok Sabha on June 9 and 23, July 7 and 21 and August 5, 1967 and in the Rajya Sabha on 18th August, 1967 and now being discussed in the Lok Sabha further as reported by the Joint Committee. Also the Convention on Fundamental Rights and Constitutional Amendment held under the auspices of the Institute of Constitutional and Parliamentary Studies on August 11, 12 and 13, 1967.

the Constitution, was not correct.[7] However, none of the arguments advanced to counter the reasoning of the Supreme Court were such that could not be met as effectively as they were advanced. This was so particularly because the phraseology of article 13 was such that it appeared to convey that it was the intention of the founding fathers to exclude Part III from the ambit of article 368. Nor was a serious effort made to find out as to what was intended to be conveyed through the provision of clause (2) of article 13 and the definition of 'law' in the clause following. To make matters worse, even some of those who were intimately associated with the framing of the Constitution, more particularly those that were responsible for the formulation and incorporation of articles relating to Fundamental Rights, chose to record their opinions on this issue, for reasons best known to them, in terms of what the Supreme Court had pronounced while actually it was the opposite, as would be evident from what follows. The categoric assertions made by Acharya Kripalani, who was the Chairman of the Fundamental Rights Sub-Committee of the Constituent Assembly, and Shri Jairamdas Daulat Ram, a member of the same Committee, the former while speaking in the Lok Sabha during the discussion on Shri Nath Pai's Constitution (Amendment) Bill relating to article 368, and the latter in his dissenting Minute to the Joint Committee Report on the above mentioned Bill, that the rights were meant to remain unalterable for all times to come, is indeed intriguing. It could have been appreciated if they had said that initially when the Fundamental Rights Sub-Committee was entrusted with the function of framing those rights or even at the time of the submission of their Interim Report, they had held that view since the Constituent Assembly had not by then formulated its ideas regarding the amending clause to be incorporated in the

[7] Some may dispute this contention. But if one glances through the Lok Sabha debate on Nath Pai's Bill wherein the subject of the Supreme Court's decision came up for a thorough scrutiny and a large number of Members representing various shades of opinion participated, the observation would stand substantiated.

Constitution, nay, not even set themselves to such a task.[8] But for them to have pronounced the view they had asserted, subsequent to the discussion on the Interim Report of the Fundamental Rights Sub-Committee in the Constituent Assembly and the acceptance by the Constituent Assembly that the rights could be altered by an amendment of the Constitution is indeed, surprising. Acharya Kripalani, speaking in the Lok Sabha on Shri Nath Pai's Bill on 9th June, 1967 observed:[9]

> "I happened to be the Chairman of the Committee on Fundamental Rights and I was present throughout when our Constitution was made. I agree with the Supreme Court judgment that article 368 is procedural ; it describes how the Constitution has to be changed if a change is necessary. I really cannot see how Mr. Nath Pai can have a quarrel with the Supreme Court ; this is definitely procedural and lays down the procedure by which ordinarily the Constitution has to be changed. This does not apply to article 13(2) ; it is very clear..... May I submit that an amendment is a law. Constitutional amendment is also a law. You need not emphasise the word 'law' and therefore take away its comprehensive meaning. Constitutional amendment is a law. An amendment to the Constitution is a much greater law..... Those who made them fundamental had all these considerations in view and discussed all these matters and they put them separately under a separate category, that even a blind majority may not be able to touch them..... I ask Mr. Nath Pai, can the law that there is freedom of speech in this

The process of formulating the amending clause was set in motion in the beginning of May, 1947 while the Interim Report of the Fundamental Rights Sub-Committee's Justiciable Fundamental Rights was submitted by the Chairman of the Advisory Committee on Minorities, Fundamental Rights etc., to the President of the Constituent Assembly on 23rd April, 1947.

Lok Sabha Debate, 9th June, 1967, Part II, Cols. 4256, 4259-4260 and 4262.

country be abrogated by a constitutional amendment? It would be a very dangerous thing if you say it can be... Arrogance can be stupidity and we in our pride must not think that we should be able to change by a majority of two-thirds the Fundamental Rights guaranteed under the Constitution. They are irrevocable because they are made on fundamental moral principles."

In his dissenting Minute to the Joint Committee Report on Shri Nath Pai's Constitution (Amendment) Bill, dated the 7th July, 1968, presented to the Lok Sabha on 22nd July, 1968, Shri Jairamdas Daulatram contended :[10]

"I hold the view that when the Constitution of India was framed and passed by the Constituent Assembly, it was definitely intended that Parliament should have no power to take away or abridge any of the rights conferred on India's citizens by Part III of the Constitution..... Stray references here and there, in the on-the-spot replies, by some of the Speakers, however eminent, to points of criticism made during the debates in the Constituent Assembly in regard to Fundamental Rights, did not affect the opinions in the Assembly, that while Part III was not 'unamendable' by Parliament in the context of changing time, the Fundamental Rights incorporated in it are not amendable in the direction of abridgement or abrogation..... Part III of our Constitution is not amendable in the direction of abridgement or abrogation of the rights listed in it except as provided under articles 33 and 34..... If the authors of the Constitution had intended that article 368 was the one which gives powers to amend any provision of Part III in the direction of abridgement or abrogation, there would have been no need to incorporate in anticipation articles 33 and 34 in Part III itself..... The title of article 368 'Amendment of the Constitution' has reference to the power of amendment of the provisions of all Parts of the Constitution, barring Part III except as to the extent already mentioned in articles 33 and 34..... I may in con-

10 Report of the Joint Committee on the Constitution (Amendment) Bill, 1967 by Shri Nath Pai, pp. xvii, xviii and xxiii.

clusion mention that the Advisory Committee of the Constituent Assembly had appointed a special Committee to deal with the question of Fundamental Rights. We were clear, in view of the discussions and the spirit which prevailed in the Advisory Committee.....that we were framing a set of Basic Rights which would constitute a kind of pact incorporating the understanding arrived at between representatives of all sections of our people as to mutual rights and obligations and conceived as essential for holding the composite nation together..... Of the twelve members of that Sub-Committee six are now alive ; Acharya Kripalani, Dr. K.M. Munshi, Shri M.R. Masani, Smt. Hansa Mehta, Sardar Harnam Singh and myself. It is not a mere coincidence that all the six of us still hold that the rights contained in Part III were not to be abridgeable or abrogable by Parliament, except to the extent and for the purposes specified and provided for in Part III itself and that the only place where the power to abridge or abrogate any right conferred by Part III is to be found is that Part itself. The attempt to derive such power from article 368 as it is or as it is proposed to be modified is both wrong and dangerous from the point of view of national solidarity, the basic consideration of any national Government."

But more intriguing is the observation of Shri K. Santhanam, who had a vital role to play in the formulation and clarification of the intention of the framers of the Constitution, more particularly of what has now come to be article 13, while tendering his evidence before the Joint Committee of the two Houses of Parliamenton Shri Nath Pai's Constitution (Amendment) Bill on 23rd October, 1967, to the effect that the framers of the Constitution when they formulated the Fundamental Rights to be incorporated in the Constitution, they intended that they should be more or less sacrosanct ; that they did not contemplate the abridgement or taking away of the rights by an amendment of the Constitution under article 368 ; and the word 'law' in article 13(2) signified only constitutional law and not an ordinary law. It is, however, gratifying to note that Shri Santhanam also stated before the aforesaid Committee that when the founding fathers framed arti-

cle 368 they did not think of excluding Fundamental Rights from the scope of article 368. Shri Santhanam's observations before the Joint Committee on Shri Nath Pai's Bill, to put it precisely in his own words, were as follows :[11]

> "When we were framing the Chapter III, it was never in our minds that by a two-thirds majority, the entire Chapter III could be repealed or article 32 could be repealed. We did intend that the Fundamental Rights should be more or less sacrosanct. That was why article 32 invested the Supreme Court with the original jurisdiction. We never contemplated that this original jurisdiction would be taken away by any amendment under article 368. Similarly, we did not think that the Fundamental Rights under article 19 would be abridged. It is for this purpose of preventing any further abridgement that every article was subject to broad restrictions of public interest, morality, decency etc. If we thought they could be easily abridged, then, these restrictions had no purpose. It is also true that when we came to article 368, we did not think of excluding Chapter III from the scope of article 368 because the very first amendment amended three articles of Part III, and that the people who were responsible for the amendments were Dr. Ambedkar and Rajaji, who moved the Bill, and Sardar Patel. Nobody raised an objection that article 368 was not applicable to Part III... I think article 13(2) is more or less conclusive. There the word 'law' cannot possibly be applied to ordinary law because it is not possible by ordinary law to change any article of the Constitution. An article of the Constitution can be effected only by a constitutional amendment or what you may call a 'constitutional law'. Therefore, article 13(2) is either nonsense or the word 'law' there can apply only to a constitutional amendment. There is no question of this being applicable to ordinary law because even for expanding the Fundamental Rights

Joint Committee on the Constitution (Amendment) Bill, 1967 by Shri Nath Pai, Evidence Volume, p. 3.

only a constitutional amendment can make that expansion valid."

If only enough pains had been taken to probe into the legislative history of article 13, it would have been established beyond doubt that it was the intention of the framers of the Constitution that when they used the expression 'law' in article 13(2) they meant to exclude constitutional law and consequently the inclusive definition of 'law' in article 13(3) excluded constitutional law ; and that it was the intention of the founding fathers that although the Fundamental Rights guaranteed under Part III of the Constitution could not be taken away or abridged by 'law', nevertheless they could be taken away or abridged through 'an amendment' of the Constitution.

The existing article 13 with its three clauses is merely an amplification and clarification of clause 2 and sub-clause (iii) of clause 1 of the Justiciable Fundamental Rights as recommended by the Sub-Committee on Fundamental Rights appointed by the Advisory Committee on Minorities, Fundamental Rights etc., on the 27th February, 1947, in its Report submitted to the latter body on 16th April, 1947. Clause 2 of the above-mentioned Report with the heading 'Application of laws' and sub-clause (iii) of clause 1 included in the heading 'Definitions' read as follows :[12]

"2. All existing laws or usages in force within the territories of the Union inconsistent with the rights guaranteed under this Constitution shall stand abrogated to the extent of such inconsistency nor shall the Union or any Unit make any law taking away or abridging any such rights."

"1. (iii) 'The law of the Union' includes any law made by the Union legislature and any existing Indian law as in force within the Union or any part thereof."

As to what exactly were the authorities whose laws were applicable for purposes of clause 2 could be gathered from sub-clause (i) of clause 1 which defined the term 'State' as including 'the

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Confidential Report found amongst the personal papers of the President of the Constituent Assembly. The Chairman of the Sub-Committee was Shri J.B. Kripalani.

legislature and the Governments of the Union and the Units and all local or other authorities within the territories of the Union'.

The Report of the Sub-Committee on Fundamental Rights came up for consideration before the Advisory Committee on Minorities, Fundamental Rights etc., on 21st and 22nd April, 1947. The Committee felt that besides the existing laws made by the legislature, the notifications and regulations made by the executive and customs prevalent which had the force of law might also stand in the way of the rights guaranteed under the Constitution and hence those also should be included in clause 2.[13] The modified clause 2 as recommended by the Advisory Committee on Minorities, Fundamental Rights etc., in its Interim Report presented to the President of the Constituent Assembly on 23rd April, 1947, therefore, read as follows :[14]

> "2. All existing laws, notifications, regulations, customs or usages in force within the territories of the Union inconsistent with the rights guaranteed under this Part of the Constitution shall stand abrogated to the extent of such inconsistency, nor shall the Unit make any law taking away or abridging any such right."

Thus it is evident from the above that when the Fundamental Rights Sub-Committee and the Advisory Committee used the

[13] (Vide) Verbatim Proceedings and Minutes of the Meetings of the Advisory Committee dated the 21st and 22nd April, 1947. The Advisory Committee at the meeting of the 21st April, decided that a Sub-Committee consisting of Shri C. Rajagopalachari, Dr. Ambedkar, Sardar Panikkar and Shri Munshi should redraft clauses 4, 5 and 6 and submit them to the main Committee. The Sub-Committee besides re-drafting the above clauses also recommended the amendment of clause 2 by adding after the word 'law' the words 'notifications, regulations, customs'. The Advisory Committee considered the drafts prepared by the Sub-Committee on 22nd April, 1947 and accepted the recommendations.

[14] Constituent Assembly Debates, Vol. III, Annexure to the Appendix of the discussions dated the 29th April, 1947, p. 440.

expression 'law' in clause 2 they were merely thinking in terms of statutory laws, the laws made by the executive and customs and usages that had the force of law and nothing else. The above mentioned Committees were concerned with the examination of the existing laws which were anything but constitutional law since no constitution existed prior to the one that they were themselves formulating.[15] Hence the term 'law' used in clause 2 excluded from its purview constitutional law. As if to efface any doubt in this regard, namely that the framers of the rights that were to be incorporated as part of the Constitution were concerned only with statutory law, the Advisory Committee on Fundamental Rights, Minorities etc., in its forwarding remarks to the Interim Report qualified the existing laws in clause 2 (para 7) in the following words :[16]

> "While in the course of our discussion and proceedings we have kept in view the provisions of *existing statute law*, we have not had sufficient time to examine in detail the effect of this clause on the mass of legislation. We recommend that such an examination be undertaken before this clause is finally inserted in the Constitution."

15 That the Fundamental Rights Sub-Committee was concerned with the examination of the mass of existing legislation and to signify it they used the term 'law' is evident from para 10 of the Report which read as follows :

> "10. While we are agreed (subject to the minutes of dissent) on the main principles of the clauses we have recommended, we have not had the time to examine in any detail the effect of these clauses on the mass of existing legislation."

In other words the Fundamental Rights Sub-Committee felt that they could use the terms 'laws or usages' for the entire 'mass of legislation' without amplifying them. But the Advisory Committee felt that an amplification was necessary and hence the addition of the terms 'notifications, regulations and customs' were made.

16 Constituent Assembly Debates, Vol. III, p. 438.

Now while it was evident from the above observations that for the purposes of existing legislation, the term 'law' meant statute law, it was not clear if for the purposes of future legislation 'law' would include in its comprehensive sense besides statute 'law' constitutional law or amendment. To clarify the position and to indicate beyond doubt that even for the purposes of future legislation 'law' would mean statutory law and not constitutional law and that although the legislatures and government could not make any law to take away or abridge any of the rights, yet through an amendment of the Constitution it would be possible to take away or abridge any of the rights guaranteed under the Constitution, if found unsatisfactory or inconvenient, the Constituent Assembly accepted an amendment to the latter part of clause 2, when it came up for consideration before it on 29th April, 1947. The amendment in this respect moved by Shri K. Santhanam and accepted by Sardar Vallabhbhai Patel, the Chairman of the Advisory Committee on Fundamental Rights, Minorities etc., read as follows :[17]

> "That in clause 2 for the words 'nor shall the Union make any law taking away or abridging any such right', the following be substituted :

[17] Ibid., pp. 415-416. It would be of interest to note that immediately after Shri Santhanam had moved his amendment and gave his reasons thereof, Sardar Patel, the Chairman, Advisory Committee on Minorities, Fundamental Rights etc. observed : "Sir, I accept the amendment". The acceptance of Shri Santhanam's amendment, almost spontaneously, by the Chairman of the Advisory Committee is indicative of the fact, at least at that stage when the Constituent Assembly had not formulated its ideas on the amending clause to be incorporated in the Constitution, that those who were entrusted with the task of formulating the rights to be incorporated in the Constitution were merely concerned in preventing the rights guaranteed being abrogated or taken away by statutory and allied laws and not constitutional law or amendment of the Constitution.

"Nor shall any such right be taken away or abridged *except by an amendment of the Constitution.*"

The reasons that Shri Santhanam gave for moving the above amendment would at once establish the fact that the rights guaranteed under the Constitution could be taken away or abridged through an amendment of the Constitution if such a need arose. Shri Santhanam observed as follows :[18]

"The only reason (for moving his amendment in respect of clause 2) is that if the clause stands as it is, then even by an amendment of the Constitution we shall not be able to change any of these rights if found unsatisfactory or inconvenient. In some Constitutions they have provided that some parts of the Constitution may be changed by future constitutional amendments and other parts may not be changed. In order to avoid any such doubts I have moved this amendment and I hope it would be accepted."

Shri Santhanam would have perhaps made a longer speech elaborating in detail the objectives of his amendment. But that was not possible due to restrictions imposed on speeches by the President of the Constituent Assembly. However, even from the short speech, that Shri Santhanam had made, it was clear that he anticipated that there might arise at a future date some doubt as to the status that would be accorded to the rights provided for in the Constitution by prohibiting a 'law' being made to take away or abridge any of the rights. In other words, he felt that the term 'law' might be interpreted to include 'constitutional law' or amendment of the Constitution and thereby prevent any changes being made in respect of the rights even by an amendment of the Constitution. It was also clear when Shri Santhanam used the term 'change' in the context of the rights being found 'unsatisfactory or inconvenient' he meant an abridgement or taking away of the rights. In other words Shri Santhanam wished to achieve through his amendment a twin objective, namely, that the term 'law' in clause 2 was to exclude 'constitutional law' and that it must be explicitly provided

[18] Ibid., p. 416.

for in clause 2 itself that the rights provided for in the Constitution could be taken away or abridged by an amendment of the Constitution. Shri Santhanam was aware of Constitutions wherein it was provided that certain parts of the Constitution may be changed by future constitutional amendments and he doubted if the existing phraseology of the clause might not be construed to exclude rights provided for in the Constitution from being abridged or taken away by an amendment of the Constitution.[19]

Even the observations of the President of the Constituent Assembly while putting clause 2 in its amended form, incorporating the amendment of Shri Santhanam to the clause as above stated and which was earlier accepted by the Assembly, to the Constituent Assembly, would testify to the fact that the Fundamental Rights could be abridged or taken away through an amendment of the Constitution. The President of the Constituent Assembly observed:[20]

> "The Constitution will provide for its own amendments, and the Constitution will be amended in accordance with the rules which will be provided in the Constitution. This clause also, (meaning thereby the Justiciable Fundamental Rights recommended by the Sub-Committee on Fundamental

[19] It would be of interest to note that it was because of the fact that the objective of his amendment was accepted that when the Constituent Assembly took up for consideration of the amending clause, then article 304, on the 17th September, 1947 Shri Santhanam did not even feel the necessity of speaking on the clause. He did not even consider it necessary to include Part III in the proviso to article 304, which at one stage he thought to be proper and gave notice of an amendment [Amendment No. 157 of List III (Eighth week)], but did not move. (Vide) Constituent Assembly Debates, Vol. IX, p. 1643. For further details see the Author's forthcoming work 'The Amending Process and Constitutional Amendments in the Indian Constitution'.

[20] Constituent Assembly Debates, Vol. III, p. 417.

Rights for inclusion in the Constitution) if necessary, may be amended in the same way as any other clause in the Constitution."

The amended clause 2 as adopted by the Constituent Assembly on 29th April, 1947 and passed on to the Constitutional Advisor for incorporation into the Constitution, read as follows :[21]

"All existing laws, notifications, regulations, customs or usage in force within the territories of the Union inconsistent with the rights guaranteed under this Part of the Constitution shall stand abrogated to the extent of such inconsistency, nor shall any such right be taken away or abridged *except by an amendment of the Constitution.*"

Subsequently, the appropriate Committees of the Constituent Assembly set themselves to the task of formulating their ideas on the amending process, the location of the amending power and the extent thereof.[22] As it was felt that an amendment of the Constitution was different from the laws made by the legislatures and governments at various levels as also the customs and usage having the force of law (about which clause 2, particularly the first part of it, was concerned) ; and that the exercise of the constituent power was different from and stood on a different pedestal from

[21] Ibid.

[22] The work of formulating an amending clause for incorporating in the Constitution commenced in the beginning of May, 1947. At first both the Provincial as well as the Union Constitution Committees were asked to make their proposals. A little later it was felt that the Union Constitution Committee alone should be vested with this power. At one stage the Union Powers Committee was also associated with the work. The deprivation of the Provincial Constitution Committee a share in the formulation of an amending clause necessitated at a later stage the appointment of a separate Sub-Committee to examine the question of conferment of some constituent power to the Units. (For details on the subject see the Author's forthcoming work).

the statutory and allied power, the Union Constitution Committee with its Sub-Committee on amendment of the Constitution which was ultimately entrusted with the task of formulating a provision relating to the amendment of the Constitution recommended that the scope and extent of the amending power and the procedure thereof should be incorporated in a separate and exclusive Part of the Constitution. The Committee concerned with the formulation of the amending clause did not, however, feel that any Part of the Constitution should be exempt from the ambit of the amending clause. Incidentally, it should be pointed out that the amending clause recommended by the Union Constitution Committee contained in it not only the procedure but also the power. This is evident from the remarks of Sir N. Gopalaswamy Ayengar when he suggested the postponement of the consideration of the amending clause as recommended by the Union Constitution Committee, of which he was a member, on the ground that some of the amendments to the amending clause had raised a very important issue as to what provision should be made for giving Provincial Legislatures some constituent power for amending the Constitution of the part relating to the Provinces.[23] The amend-

[23] (Vide) Constituent Assembly Debates, 31st July, 1947, Vol. IV, p. 979. The reply given by Sir N. Gopalaswamy Ayengar when the President suggested the consideration of Part X was as follows :

> "Sir, I may here request your permission for asking that the moving of this Part be postponed because some of the amendments have raised a very important issue as to what provision should be made for giving Provincial Legislatures some constituent power for amending the Constitution of the province."

That the amending clause is not merely procedural but also contains the power is further evident from the Report of the Drafting Committee to the President of the Constituent Assembly dated the 21st February, 1948 when the Drafting Committee incorporated into the Constitution the recom-

ing clause as formulated by the Union Constitution Committee and adopted by the Constituent Assembly was then passed on to the Constitutional Advisor for incorporation into the Constitution.

The various articles of the Constitution as formulated by the various Committees of the Constituent Assembly and adopted by the Constituent Assembly were incorporated in a Draft Constitution prepared by the Constitutional Advisor in October 1947. Clauses 8 and 9 of the above Draft, which corresponded to clauses 1 and 2 of the Justiciable Fundamental Rights as adopted by the Constituent Assembly on 29th April, 1947, read as follows :

"8. In this Part, unless the context otherwise requires,—
(1) "Federal" includes any existing law "Definition" as in force for the time being ;

(2) "The State" includes the Government and the Legislature of the Federation and of each Unit and all local or other authorities within the territories of the Federation.

9. (1) All laws in force immediately before the commencement of this Constitution in the "savings" territories included within the Federation, in so far as they are inconsistent with any of the provisions of Chapter II of this Part, shall, to the extent of such inconsistency, be void.

mendation made by the Union Constitution Committee, a provision giving limited constituent power to the State Legislatures in respect of certain matters. Para 18 of the Report of the Drafting Committee observed as follows :

"18. *Amendment of the Constitution* : The Committee has inserted a provision giving a limited constituent power to the State Legislatures in respect of certain defined matters."

(2) Nothing in this Constitution shall be taken to empower the State to make any law which curtails or takes away or which has the effect of curtailing or taking away any of the rights conferred by Chapter II of this Part *except by way of amendment of this Constitution under section 232* and any law made in contravention of this sub-section shall, to the extent of the contravention, be void.

(3) In this section, the expression 'law' includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territories of the Federation.

A careful examination of the draft articles as prepared by the Constitutional Adviser, Sir B.N. Rau—what was originally clauses 1 and 2 of the Justiciable Fundamental Rights as adopted by the Constituent Assembly on 29th April, 1947 and what subsequently became articles 12 and 13 of the Constitution—would reveal that the substance of the decision taken by the Constituent Assembly on 29th April, 1947, namely that although the rights guaranteed under the Part relating to Fundamental Rights could not be taken away or abridged by the enactment of a 'law' nevertheless they could be abridged or taken away by 'an amendment of the Constitution', was incorporated. The Draft articles clarified the position of the Fundamental Rights vis-a-vis the amendment of the Constitution, after the amending clause had been formulated, by specifically providing in the body of clause 9(2) the expression 'except by way of amendment of this Constitution under section 232'.[24] The original clause 2 was split up into three subclauses to bring out clearly, without any ambiguity whatsoever, the intentions of the founding fathers on this subject. Since

[24] This was the amending clause as recommended by the Union Constitution Committee and adopted by the Constituent Assembly. The amending clause subsequently became article 304 in the Draft Constitution and article 368 of the Constitution as finally adopted.

emphasis had to be laid on the fact that not only the existing legislation but also any future legislation that would have the effect of abrogating or taking away any of the rights guaranteed under the Constitution would be void, the Constitutional Advisor found it necessary to split the original clause 2 into two separate sections. As the splitting up of the clause for the purpose of emphasising that not only for purposes of existing legislation but also for any future legislation, any law, notification, regulation, custom or usage would be void, required the repetition of the expression 'notifications, regulations, customs or usages' in both the sub-clauses, Sir B.N. Rau felt that a better form of drafting would be to use a single expression in the sub-clauses and state these expressions of common applicability to both the clauses in a separate clause. Besides a further probe into the existing mass of legislation, which had not been examined by the Advisory Committee during the time of submission of their Report and as such had recommended that such an examination be undertaken before the clause was finally inserted in the Constitution,[25] revealed that there were also many ordinances, bye-laws, orders and rules made by the executive having the force of law. It was, therefore, felt that unless these expressions were also included in the clause, it might appear that the framers of the Constitution had permitted that the existing ordinances, orders, bye-laws or rules had the effect of abridging or taking away the rights guaranteed under the Constitution or that in the future through ordinances, orders, bye-laws or rules the State could abridge or take away the guaranteed rights. Since the objective of the clause was to safeguard the rights against encroachment made through various forms of legislation, existing and prospective, the Constitutional Adviser felt that a single expression 'law' could be used in the split-up clauses and in the third clause the amplification of the single expression could be provided for.

[25] Observations made at para 7 of the Interim Report of the Advisory Committee submitted to the President of the Constituent Assembly by the Chairman on 23rd April, 1947 (vide) Constituent Assembly Debates, Vol. III, p. 438.

The Draft of the Constitution prepared by the Constitutional Adviser was subsequently passed on to the Drafting Committee for giving final shape to the Constitution. The Drafting Committee now had before it both the amending clause (section 232) and sections 8 and 9 of the Justiciable Fundamental Rights, incorporating as it did the substance of clauses 1 and 2 of the Justiciable Fundamental Rights as recommended by the Sub-Committee on Fundamental Rights in its Interim Report, approved by the Advisory Committee and adopted by the Constituent Assembly on 29th April, 1947. Taking up for consideration sections 8 and 9 of Sir B.N. Rau's Draft, on 30th October, 1947, the Drafting Committee felt that with the provision in an exclusive Part matters relating to the amendment of the Constitution and also as the original clause 2 of the Justiciable Rights dealt with statutory and allied laws, to clarify which Sir B.N. Rau had split up the clause into three sub-sections of section 9, the reference made in sub-section (2) of section 9 to the amendment of the Constitution, would be inappropriate, though no evidence is available since no verbatim proceedings of the Drafting Committee had been kept but otherwise obvious, and hence should be deleted.[26] However, as the Drafting Committee was obliged to incorporate the decision of the Constituent Assembly that the Fundamental Rights could be abridged or taken away by an amendment of the Constitution, the substance of Shri K. Santhanam's amendment to clause 2 of the Justiciable Fundamental Rights and as such provided for in Sir B.N. Rau's Draft Constitution, it felt that a more appropriate place in this respect would be in the Part relating to the amendment of the Constitution. But as the Constituent Assembly had accepted the amendment of Shri K. Santhanam that the Rights enshrined in Part III of the Constitution would not be exempt from the amending clause, and as a matter of fact no provision of the Constitution would be exempt from the

Only the Minutes of the Proceedings of the Drafting Committee were maintained. The Minutes of 30th October, 1947 merely state in respect of clause 9 : 'It was decided that this clause should be revised as shown in the Appendix.'

amending clause, the Drafting Committee did not find the necessity of making any specific mention regarding the amendability of Fundamental Rights in article 304 of the Draft, corresponding to article 368 of the Constitution. It could not be otherwise for if the Drafting Committee had chosen to differ from the express decision taken by the Constituent Assembly that the Fundamental Rights could be abridged or taken away by an amendment of the Constitution, it would have specifically mentioned in article 304 (of the Draft) that the Rights guaranteed in Part III should not be abridged or taken away by an amendment of the Constitution and consequently the modifications effected would have come up for consideration and approval by the Constituent Assembly. The fact that the question did not come up again in the Constituent Assembly establishes beyond doubt that at the Drafting Committee stage no alterations were made to the position taken earlier that the Rights guaranteed under the Constitution in Part III could be abridged or taken away by an amendment of the Constitution. It should be pointed out at this juncture that when finally the Draft Constitution was framed and widely circulated for inviting comments and suggestions and one of the critics drew attention to the fact that clause (2) of article 8 [clause (2) of article 9 as approved by the Drafting Committee on October 30, 1947 may be held as a bar to the amendment of the provisions of the Constitution relating to Fundamental Rights by a law passed under article 304 (of the Draft Constitution) and it should, therefore, be made clear that there was no restriction on the power of Parliament to amend such provisions under article 304, Sir B.N. Rau stated that clause (2) of article 8 did not override the provisions of article 304 of the Constitution as the expression 'law used in the said clause was intended to mean 'ordinary legislation' although by way of abundant caution and to remove any possible doubt, he had suggested an amendment to article 8 (of the Draft Constitution) to the effect :[27]

> "that in the proviso to clause (2) of article 8, after the words 'nothing in this clause' the words 'affect the pro-

[27] Personal papers of the President of the Constituent Assembly.

visions of article 304 of the Constitution or' be inserted."

The non-acceptance by the Drafting Committee and the Special Committee of the Constituent Assembly of the amendment as proposed by Sir B.N. Rau to article 8 of the Draft Constitution further confirms the fact that no such amendment was necessary since in the form in which it was provided for then indicated beyond doubt that the bar to abridgement or taking away of Fundamental Rights was to the making of a 'law' and not to 'an amendment' of the Constitution ; that it would be redundant to specify that the Fundamental Rights guaranteed in Part III would not be exempt from the purview of the amending clause.

From the above account of the legislative history of article 13[28] it is clear that although the rights guaranteed in Part III of the Constitution could not be abridged or taken away by 'law' it could nevertheless be abridged or taken away by an amendment of the Constitution as the Constituent Assembly had accepted an amendment in that regard ; that the Drafting Committee did not make any specific mention of the possibility of taking away or abridging of Fundamental Rights through an amendment of the Constitution in article 13 itself as it felt that it would be inappropriate to include matters relating to the amendment in that article because matters relating to the amendment of the Constitution were provided for exclusively in a separate Part of the Constitution. Consequently the term 'law' in article 13 meant statutory and allied laws to the exclusion of constitutional law which was dealt with under article 368 of the Constitution. That being the case, article 13 is no bar to the amendment of the Constitution.

Now to conclude, it must be said that if only those who were entrusted with the task of assisting the Supreme Court Judges in supplying evidences and extracts from the proceedings of the

The Legislative history of article 13 to the extent necessary to establish the fact that the article is no bar to amendment of the Constitution has been traced. Subsequent modifications, verbal and clarificatory, till its adoption in the existing form have not been mentioned consequently.

Constituent Assembly had done their job as they ought to and had drawn the attention of the Judges to the discussions on the Interim Report of the Fundamental Rights Sub-Committee and the acceptance by the Constituent Assembly for the final adoption and incorporation into the body of the Constitution the provision that it was possible to abridge or take away Fundamental Rights by an amendment of the Constitution, the Supreme Court would not have come to the conclusion they had arrived at in the Golak Nath's case or at least would not have resorted to the line of reasoning they took even if they were intent on achieving their objective.

K. A NOTE ON THE CONSTITUTION (EIGHTEENTH AMENDMENT) BILL, 1964

(Bill No. 36 of 1964)

An official Bill for amending the Constitution for the eighteenth time was made on 24th April, 1964. Its objective, as the Statement of Objects and Reasons pointed out, was clarificatory, namely, to remove the doubts that might arise as to the effect of an order made under article 359 consequent on the difference in language between articles 358 and 359. The statement drawing attention to the fact that article 358 rendered the provisions of article 19 automatically inoperative while the Proclamation of Emergency was in operation and the power to make any law or to take any executive action was not restricted by the provisions of that article, observed that the intention underlying article 359 appeared to be that, when an order was mode under clause (1) of that article in relation to any of the rights conferred by Part III, the order so made would have the same effect in relation to those rights as article 358 had in relation to article 19. The Bill, therefore, sought to remove those doubts by inserting a new clause in article 359 which followed the language of article 358. In other words it was the intention of the Bill to validate all laws and executive action taken in relation to any of the rights conferred by Part III during the period of emergency under article 359. It was further desired through the above Bill to clarify that the order made under clause (1) of article 359 would be applicable to all persons or any class of persons. It was also proposed to take powers to make the order with retrospective effect to any date not earlier than the date of issue of Proclamation.

It was submitted before the Bill was introduced that such a Bill should not be introduced. However, the Speaker allowed Shri A.K. Sen to introduce the Bill. Immediately after leave was sought certain members rose to oppose the introduction of the Bill. As under Rule 72 of the House if a motion was

opposed at the introduction, the Speaker could allow a member to state his reasons for opposition and the mover to reply before he could give his ruling or put the matter before the House for vote, the Speaker said that he would allow only one member to speak. As the choice of the person was left to the Speaker, he called upon Shri N.C. Chatterjee to speak. However, Shri H.N. Mukerjee, Shri Ranga, Shri Kapur Singh, Shri S.M. Banerjee, Shri Nath Pai and Shri Brajraj Singh spoke, all opposing the Bill. Shri A.K. Sen replied to the speeches made in opposition. After the speech of Shri A.K. Sen, the question was put before the House and with 172 votes for the motion as against 52, the motion was adopted. Shri A.K. Sen then introduced the Bill.

However, four days later on 28th April, Shri A.K. Sen announced that the Government did not propose to proceed with the Constitutiton (Eighteenth Amendment) Bill then 'in deference to the wishes of many within their party and also of members on the other side'. The consideration of the Bill was postponed for a future date and since it was not taken up before the end of the Third Parliament, it lapsed.

Now before an assessment of the Constitution (Eighteenth Amendment) Bill is made, a brief account of the proceedings of the Lok Sabha in respect of the discussion on this Bill at the introduction stage is necessary.

On 24th April, 1964, the Speaker asked Shri A.K. Sen to move for leave to introduce his Bill. Shri Surendranath Dwivedy intervening submitted that it would be better if the Bill was not introduced then, because at the introduction stage, they had a convention in the House that ordinarily they did not oppose the introduction of Bills. The Speaker, however, allowed Shri A.K. Sen to introduce his Bill. Thereon, Shri A.K. Sen moved for leave to introduce his Bill. Shri N.C. Chatterjee, Shri Ranga, Shri Kapur Singh, Shri H.N. Mukerjee and Shri S.M. Banerjee opposed the introduction of the Bill. The Speaker said that he had received intimation regarding their opposition and that he could allow only one member to speak. If the members concerned could agree among themselves as to who should speak, that would be better, he added. But as the option was left to him, he called upon Shri Chatterjee to speak.

Shri N.C. Chatterjee characterising the day of introduction of the Bill as the blackest day in the history of the country, opposed the Bill because the Government, constituted under the Constitution, could claim no moral or legal right to amend the Constitution for the purpose of covering up their violations of the fundamental rights specially when it demanded that in future it would have the right to violate the Constitution and to escape the effects of such violation. He said that the most tragic feature then was that the highest law officer of the State, the Attorney-General of India had to concede before the Chief Justice and the Judges of the Supreme Court on the Constitution Bench that the arrests and detentions under the Defence of India Act and Rules were wholly illegal and unconstitutional and added that that was a crude attempt really to cover up the violations of those articles which were consciously incorporated in order to effect equality in the eyes of law, afford equal protection and minimum protection for all citizens deprived of their liberties. Quoting another judge who said that there were three courses open to Government and to Parliament, namely, Parliament could make valid law without infringing fundamental rights other than article 19, could amend section 491 of the Criminal Procedure Code in order to take away the right of habeas corpus, or could do both, he observed that Shri Sen was then pursuing an extraordinary course of amending the Constitution—blending the Constitution to fit in with his unconstitutional laws rather than blending the laws in order to fit in with the guarantees of the Constitution. He hence, submitted that that was a course which Parliament should avoid. He contended that if they allowed that kind of amendment of the Constitution, then the rule of law would be finished. The Constitution-makers, he held, deliberately and consciously made it the law that only one article, namely article 19 could be affected during an emergency, and as such, under the plea of emergency, they could not violate articles 14, 21 and 22 which were very important rights given to the citizens. He was of the view that the effect of the amendment would be not only to vest the Executive with complete, uncontrolled and uncanalised power to set at nought any of the fundamental rights, apart from article 19, but also to give it retrospective effect. He concluded by saying that it was wholly

illegal and unconstitutional and, therefore, it should not be permitted.

Shri H.N. Mukerjee observed that it was unusual to oppose at the introduction stage, but that was, even for the Government, a most unusual Bill. He said that he noticed prevarication, sheer prevarication, in the Statement of Objects and Reasons, where the Minister had suggested that doubts arising from difference in language between articles 358 and 359 were very innocently being sought to be resolved, but the real intention was to extinguish the fundamental rights. He submitted that the Law Minister was proposing retrospective operation of the amendment that he was trying to indemnify the executive in regard to illegal actions of detention. Indemnification with retrospective effect, he contended, was something which went against the spirit and letter of article 34 which laid down very clearly that such indemnification would be provided only in relation to acts done during the Martial Law period and it was from that point of view that the Speaker and the House should consider that matter. Instead of coming before Parliament to rectify the defects in the Defence of India Act and Rules so that it did not militate against the Constitution, Government had chosen that course which was the most dangerous procedure, he added. Further, he pointed out that the right of the judiciary was sought to be taken away, not even on a plea that the country was socio-economically to advance the fundamental interests of their country's development, but to expand the power of the Executive. Hence, he said that they wished to oppose with all their strength the introduction of the Bill.

At this stage, the Speaker stated that it was not necessary that everyone should speak and that if they wanted to associate themselves he would take down their names. *Shri Ranga* contended that there was a kind of a battle axe which the Government wer placing on the heads of all of them in the House and all over India and that it was only then that they could say something. Once that Bill was allowed to be introduced, their majority was there and they were at their mercy, he added.

Shri Kapur Singh said that the very principle of the Bill was that the unconstitutional lawlessness perpetrated by the Govern-

ment should be constitutionally opposed and added that in simple, plain and non-technical language, that was an Act of banditry which was not within the competence of the House.

Shri S.M. Banerjee stated that they opposed the Bill, because, in his opinion, it destroyed the democratic foundation of the sovereign democratic Republic of India ; that it was a fraud on the Indian Constitution sought to be practised by Government constituted under the Constitution. He felt that the provisions of the Bill would make the people of the country defenceless and then the Government in power wanted to apply the Defence of India Rules. He, therefore, requested the Prime Minister to rise as a democrat and see to it that the Fundamental Rights of the people were not crucified on the cross of unconstitutionality that was being practised by the Law Minister.

Shri Nath Pai pointed out to the very dangerous precedent which they were about to set-up in complete violation of the oath they took to uphold the Constitution. He said that in the past, they had been guilty of maltreating the Constitution but at that moment they were bringing a Bill which was nothing short of mauling and maiming the Constitution. If the amendment was allowed to be passed, he contended, that would be substituting something very different from the Constitution to which they had pledged their allegiance when they became the members of the House. In that connection, he pointed out to a very dangerous anomaly, to an inadvertant Act called the Enabling Act, which was allowed to be passed by the Reichstag that had a retrospective effect and gave power to do away with the basic guarantees of the Constitution, and which proved to be the beginning and the end of the Republic of Germany and added that he did not like that that odious analogy be brought to India, particularly before a man (referring to the Prime Minister) who prided himself upon being the wonted opponent of that kind of rule. He, therefore, pleaded with the party in power that they do not make it a matter of prestige and that the whip of the Party should not be allowed to smother their conscience and be allowed then to forget the oath they took that they would be in the House, to enhance the rights of the citizens and not to curtail them.

Shri Brajraj Singh also opposed the Bill. He said that it was true that the Government was given the powers to abrogate the fundamental rights during the period of emergency, but it was not expected that after the emergency was over that they would perpetuate it. He added that it would create an impression in the minds of the people that even Parliament would play a fraud on them and invade on their fundamental rights.

The Minister of Law (Shri A.K. Sen) replying to the observations, at the outset corrected the impression that it was a Bill introduced by the Government after full consideration of all the circumstances and conditions which had to be taken into account. Explaining the object which had prompted the Government to introduce that amendment, he observed that a perusal of articles 358 and 359 would convince anyone that those articles were meant to be applied after the emergency had been declared and added that when an emergency was declared, ipso facto, the powers of the legislature and of the Government were extended. Stating that article 358 completely abrogated article 19 of the Constitution, he said that the purpose was, when an emergency was declared, the framers of the Constitution knew that even to maintain the Constitution and the free Government which it created, it might be necessary for the Government to be invested with extraordinary powers and if the fetters of article 19 still operated on the legislature and the Government, it would be impossible to meet the demands of an emergency. Then with regard to article 359, he pointed out that the framers of the Constitution had contemplated that all the fundamental rights need not be abrogated automatically like article 19, but that the President should be invested with power to declare from time to time, by an order which other articles were to be specified by him in the orders in question, so that all remedies for the enforcement of the fundamental rights covered by the orders in question would be barred. The purpose was, he explained that the legislature thought that as soon as there was an emergency, article 19 should go, but so far as the other articles were concerned they felt that they need not go all at once, but the President be the guardian to see which of the articles should be barred, so far as the enforcement of the remedies were concerned, and when the President made an order,

such order should be subject to review by Parliament, because the President was constitutional President. If that was so, he said that the purpose of article 359 was also clear as the Chief Justice of the Supreme Court in his judgment in the latest case had said, that no remedies were open to challenge a Government action or legislation passed by Parliament on the ground that they contravened any of the articles other than article 19 so long as the emergency operated. The point taken, therefore, was, he added, a point which was left open completely by the Supreme Court, on behalf of the Government, that when remedies were barred in regard to particular fundamental rights, those rights must be deemed to be suspended also during the period, because it was a trite principle of law that there was no right without a remedy and if there was no remedy, there was no right. That point, he further added, was left completely open by the Supreme Court and as such Shri Chatterjee's observation that the Attorney-General conceded that the orders were invalid was not correct. The Attorney-General, conceded, he argued, that if those articles were in operation, namely, articles 21, 22 and others, those orders would certainly be in contravention of those articles. It was the contention of the Supreme Court, he observed, that those orders which were challenged, would certainly, from a very perusal of them, showed that they were in conflict with article 20 and others, but the Government had contended that in an emergency when those very articles were specified in the Presidential order, the remedy was completely barred and that those articles must also be deemed to be barred during the period of emergency. It was, therefore, he pointed out, a curious interpretation to say that remedies for enforcement would be barred and Government would be entitled to act in a particular manner notwithstanding the limitations of those articles during the emergency, and the moment the emergency revived there would be right of action against the officers who had carried out those orders because it was well-known that the Government was not liable at all and it was only the officers who were; it was a curious interpretation of the framers of the Constitution that, when they gave that power to the President to bar remedies as regards particular articles they were contemplating that action under those articles, remedies of

which would be barred during an emergency, could be taken immediately after the emergency against officers who would be faithfully carrying out those very orders. The purpose of the above amendment, therefore, he stated, was only to clarify the position that when remedies were completely barred as regards particular rights during an emergency, the rights themselves must be deemed to be in suspense.

Referring then to the remarks that they were all presiding over the liquidation of the Constitution, Shri Sen observed that the emergency did not abrogate parliamentary control over the executive and that all that happened was that Parliament was freed from some of the limitations imposed by Parliament by reason of that constitutional guarantee. For every little action that was taken in exercise of the emergency powers, he reiterated that parliamentary control continued in its old form and it remained as supreme as ever in its field as a guardian of the liberties and freedoms of the citizens and in seeing that the executive did not transcend the limits which Parliament would think proper for the executive to be confined to. He concluded by saying that in view of fighting the aggression, large scale espionage and subversive activities, they could not keep within the limits prescribed by the fundamental rights in exercise of their duties to defend the Constitution itself and it was, therefore, in an emergency the framers thought it necessary that the legislature and the government should be freed from the fetters of those constitutional limitations.

The Speaker then moved the motion for leave to be granted to introduce the Bill. The Lok Sabha division recorded 172 Ayes and 52 Noes and as such the motion was adopted. Shri Surendranath Dwivedy observed that they could not be a party to it and as a protest, he, Shri Ram Sevak Yadav and some other members left the House.

Shri A.K. Sen then introduced the Bill.

Four days later, however, on April, 28th 1964, *Shri A.K. Sen* (the Minister of Law) announced that the Government did not propose to proceed with the Constitution (Amendment) Bill. Offering in that connection a few words in explanation, because

it was a matter which had hardly any precedent, particularly on such an important matter, he said that although it was true that the Bill had raised a rather strong controversy about either the intention of the Government or the scope of the Bill and that it had often been suggested that the Government proposed to ride roughshod over the Constitution, it was impossible to concede to that position and the Government never proposed to do anything of the sort. In deference to the wishes of many within their party and also of members on the other side, he added, it was hardly a matter on which any of them would like to make it an issue. However, he pointed out that meeting the emergency would be the privilege of the entire House and at the appropriate time, they would consider what necessary steps possible might have to be devised, in consultation with all the representatives of the various groups and parties in the House for the purpose of seeing if, during the working of the emergency, any further safeguard would be necessary for the protection of officers carrying out their duties.

Shri H.V.Kamath on a point of order, observed that under Rule 110, the Minister had to ask for leave to withdraw the Bill, since the Bill had been introduced. The Speaker, however, ruled that the Bill was not withdrawn, but at that time, the Law Minister did not only want to proceed with the Bill. If he had to withdraw it, then alone he might ask for leave, he added.

The Constitution (Eighteenth Amendment) Bill however lapsed with the tenure of the Third Parliament being over. The Bill has not since been re-introduced till date.

In respect of the 18th Amendment Bill it should be said at the outset that rightly did government of the day stop further consideration on it. The clarificatory clause sought to be introduced would have amounted to misinterpretation of article 359. It would be incorrect to say that it was the intention of the framers of the Constitution that clause (1) of article 359 permitted the power to make any law or to take any executive action in an emergency in relation to any of the rights conferred by Part III just as article 358 permitted the power to make any law or to take any executive action in an emergency in relation to article

19. If that were so, it was hardly necessary for two different provisions to have been made in that regard. That while article 358 renders the provisions of article 19 automatically inoperative while the Proclamation of Emergency is in operation, no provision of Part III is rendered inoperative while the Proclamation of Emergency is in operation under article 359. Where a Proclamation of Emergency is in operation under clause (1) of article 359, no provision of Part III is suspended except the right to move the judiciary for the enforcement of rights under Part III. Besides, such a provision in the Constitution might afford opportunities for the executive to abuse its powers. If at all, therefore, protection was to be given against a possible charge of excessive use of the executive power during the period of emergency amounting to a violation of the Constitution, it should be done not by making an express provision in that regard in the Constitution but by some other way. The Government of the day could have pursued in the matter and with the majority they had, they could have made such a provision, in which case it would have been established beyond doubt, at least in one case, that the Constitution was amended for partisan ends. Inasmuch as, the matter was deferred and allowed to lapse and has not been reintroduced, it could be said that no amendment to the Constitution has been effected till date for serving the objective of the Government in power.

POSTSCRIPT

Since the Book had gone into the Press, the Constitution has been amended twenty-four times and perhaps two more amendments would have been made by the time the present Book is read by a large section of the people. Although the additional amendments made or the ones on the anvil do not warrant any modification of the views expressed on various matters in the Book, yet for purposes of making the Book uptodate a few observations are required to be made.

The Twenty-Second amendment to the Constitution was necessitated for constituting within the State of Assam an autonomous State since it was not clear from the phraseology of articles 2 and 3 if those articles permitted such action without resorting to an amendment of the Constitution. The creation of an autonomous State within the existing State of the Union was something new, like the creation of Union territories, not envisaged by the framers of the Constitution and hence not provided for in the Constitution. Additional provisions had, therefore, to be made in appropriate places in the Constitution. A noteworthy feature of the amendment was that although there was a wide support from the various sections of the two Houses for the provisions contained therein, it failed to get the requisite majority in the Lok Sabha at the clause-by-clause consideration stage when it was considering the Bill as reported by the Joint Committee of the two Houses, necessitating thereby the reintroduction of the Bill four months later. However, before the Bill was reintroduced, the Minister who was piloting the Bill, sought the permission of the House to withdraw the Bill, under Rule 110 of the Rules of Procedure and Conduct of Business in the Lok Sabha, on the ground that additional provisions had to made in the original Bill.

The Twenty-Third amendment to the Constitution was necessitated due to the non-fulfilment of the objectives of the framers in respect of the Scheduled Castes and Scheduled Tribes and the

Anglo-Indians within the time specified in the Constitution despite the fact an extension in the period was already made by resorting to an amendment of the Constitution. No basic changes in the constitutional document were made as a result of the above amendment.

The Twenty-Fourth amendment to the Constitution is the result of the Supreme Court judgment in Golak Nath's case although it had come about earlier than contemplated due to the Supreme Court judgment in the Privy Purses' case, wherein, the Court, inter alia, invalidated the Presidential Ordinance on the ground that the privy purse was a property right under article 31—a right contained in the Fundamental Rights chapter and as such attracting article 13 and as per Supreme Court judgment in Golak Nath's case, beyond the purview of article 368. As a matter of fact the subject-matter of the 24th Amendment to the Constitution, ought to have been the articles relating to the Rulers' privy purses and privileges, for the termination of which an official amendment was moved but had failed to get the requisite majority at the consideration stage of the Bill in the Rajya Sabha although there was an overwhelming support for the Bill in both the Houses and the Rajya Sabha itself had adopted a Private Member's Resolution in that regard. To enable, therefore, the termination of the privy purses and privileges of the Rulers, it became necessary first to amend the Constitution in a manner that the Supreme Court judgment in Golak Nath's case may not stand in the way of realisation of that objective. As a matter of fact the 24th Constitution Amendment relating to articles 13 and 368, particularly in the manner it seeks to amend the Constitution, would have been delayed or at least would not have been moved as the 24th Amendment, if after the original 24th Amendment relating to the Rulers' privy purses and privileges was lost in the Rajya Sabha, it had been reintroduced as a Constitution Amendment Bill instead of a resort to Presidential action under article 366(22) and thereby inviting the verdict of the Supreme Court in the manner it was offered. In all probability the Court would not have struck down a Constitutional Amendment seeking to abolish privy purses and privileges, although the Princes might have argued their case [rivy purses came within the meaning of pro-

perty for purposes of article 31, in view of the mass of opinion against the retention of articles relating to privy purses and privileges. It was because of the fact that a procedure other than the one appropriate and valid from the point of view of the Constitution was followed, a procedural irregularity, the Court was forced to invalidate the action, with vengeance, so to say, on as many counts as possible.

The Constitution 24th Amendment seems to have descended on the Constitution with a vengeance, when actually there is no need for such an amendment at all. For one who has studied and understood the framework of the Constitution, in the written word and spirit, the 24th amendment is redundant and serves no other purpose than to lengthen the Constitutional document which is already lengthy enough. Article 13 is no bar to the amendment of Part III of the Constitution even to the extent of abridging or taking away any of the rights contained in it under article 368 (See Appendix J, p. 182). Article 368 contains not only the procedure but also the power to amend the Constitution. Each and every provision of the Constitution can be amended through article 368.

It would be of interest to note that all the three Constitution amendments, namely, 22nd, 23rd and the 24th required to be ratified by the requisite number of States' Legislatures, bringing the total number of amendments that required to be ratified to 11. (For further details on the amendments see the Author's forthcoming Volumes on the subject).

For purposes of statistics, with the 24th Amendment put on the statute book, fifty-six articles and seven Schedules have been amended and fourteen new articles and a Schedule have been added. With the 24th amendment, article 368 stands amended for a second time, the first occasion being the Seventh Amendment, when consequential changes were made. The average rate of amendment has been pushed up to an amendment once in eleven months. The Constitution 22nd Amendment, inter alia, has added one more provision to the Constitution, namely, 244A, the alteration of which would not be "deemed an amendment" of the Constitution under article 368.

It only remains to be reiterated that no amendment till date has basically altered the scheme of the Constitution. Nor has any amendment been made, including the 24th Amendment, on partisan grounds. Perhaps the Constitution 24th Amendment could have been avoided. But then having caused the provocation to the Supreme Court in arriving at the decision they did in Golak Nath's case a solution that would at once be fool-proof and enduring appears to be an amendment of the Constitution clarifying the intentions of the founding fathers in every conceivable aspect relating to the power and procedure of amendment of the Constitution under article 368, however redundant they may be. Constitution 22nd and 24th Amendments provide two more occasions when a Constitution Amendment Bill had failed to get the requisite majority at one stage or another due to lack of adequate interest on the part of Members of Parliament when a Constitution Amendment Bill is discussed and their habit of being present only when a voting takes place.

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