

THE CONSTITUTION  
OF  
THE UNION OF BURMA

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*Constituent Assembly of Burma*

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Rangoon, Supdt., Govt. Printing and Stationery, Burma, 1948

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## **PREAMBLE**

WE, THE PEOPLE OF BURMA including the Frontier Areas and the Karenni States, Determined to establish in strength and unity a SOVEREIGN INDEPENDENT STATE, To maintain social order on the basis of the eternal principles of JUSTICE, LIBERTY AND EQUALITY and To guarantee and secure to all citizens JUSTICE social, economic and political; LIBERTY of thought, expression, belief, faith, worship, vocation, association and action; EQUALITY of status, of opportunity and before the law, IN OUR CONSTITUENT ASSEMBLY this Tenth day of Thadingyut waxing, 1309 B.E. (Twenty-fourth day of September, 1947 A.D.), DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

## **CHAPTER I**

### **FORM OF STATE**

- 1.** Burma is a Sovereign Independent Republic to be known as “ the Union of Burma.”
- 2.** The Union of Burma shall comprise the whole of Burma, including
  - (i) all the territories that were heretofore governed by His Britannic Majesty through the Governor of Burma, and
  - (ii) the Karenni States.
- 3.** The sovereignty of the Union resides in the people.
- 4.** All powers, legislative, executive and judicial, are derived from the people and are exercisable on their behalf by, or on the authority of, the organs of the Union or of its constituent units established by this Constitution.
- 5.** The territories that were heretofore known as the Federated Shan States and the Wa States shall form a constituent unit of the Union of Burma and be hereafter known as “the Shan State.”
- 6.** The territories that were heretofore known as the Myitkyina and Bhamo Districts shall form a constituent unit of the Union of Burma and be hereafter known as “the Kachin State.”
- 7.** The territories that were heretofore known as the Karenni States, viz., Kantarawaddy, Bawlake and Kyebogyi shall form a constituent unit of the Union of Burma and hereafter known as “the Karenni State.”
- 8.** All powers, legislative, executive and judicial, in relation to the remaining territories of the Union of Burma shall, subject to the provisions of section 180, be exercisable only by, or on the authority of, the organs of the Union.

## **CHAPTER II**

### **FUNDAMENTAL RIGHTS**

#### **DEFINITION OF “STATE.”**

**9.** In this Chapter and in Chapters III and IV, the term “State” means the executive or legislative authority of the Union or of the unit concerned according as the context may require.

#### **CITIZENSHIP.**

**10.** There shall be but one citizenship throughout the Union; that is to say, there shall be no citizenship of the unit as distinct from the citizenship of the Union.

- 11.** (i) Every person, both of whose parents belong or belonged to any of the indigenous races of Burma;
- (ii) every person born in any of the territories included within the Union, at least one of whose grand-parents belong or belonged to any of the indigenous races of Burma;
- (iii) every person born in any of territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizens of the Union;
- (iv) every person who was born in any of the territories which at the time of his birth was included within His Britannic Majesty’s dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1<sup>st</sup> January 1942 and who intends to reside permanently there in and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of the Union.

**12.** Nothing contained in section 11 shall derogate from the power of the Parliament to make such laws as it thinks fit in respect of citizenship and alienage and any such law may provide for the admission of new classes of citizens or for the termination of the citizenship of any existing classes.

### **RIGHTS OF EQUALITY**

**13.** All citizens irrespective of birth, religion, sex or race are equal before the law; that is to say, there shall not be any arbitrary discrimination between one citizen or class of citizens and another.

**14.** There shall be equality of opportunity for all citizens in matters of public employment and in the exercise or carrying on of any occupation, trade, business or profession.

**15.** Women shall be entitled to the same pay as that received by men in respect of similar work.

### **RIGHTS OF FREEDOM**

**16.** No citizen shall be deprived of his personal liberty, nor his dwelling entered, nor his property confiscated, save in accordance with law.

**17.** There shall be liberty for the exercise of the following rights subject to law, public order and morality: -

- i. The right of the citizens to express freely their convictions and opinions.
- ii. The right of the citizens to assemble peaceably and without arms.
- iii. The right of the citizens to form associations and unions. Any association or organization whose object or activity is intended or likely to undermine the Constitution is forbidden.
- iv. The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade, business or profession.

**18.** Subject to regulation by the law of the Union trade, commerce and intercourse among the units shall be free:

Provided that any unit may by law impose reasonable restrictions in the interests of public order, morality, health or safety.

- 19.** (i) Traffic in human beings, and  
 (ii) forced labour in any form and involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall be prohibited.

***Explanation.*** – Nothing in this section shall prevent the State from imposing compulsory service for public purposes without any discrimination on grounds of birth, race, religion or class.

## **RIGHTS RELATING TO RELIGION**

**20.** All persons are equally entitled to freedom of conscience and the right freely to profess and practise religion subject to public order, morality or health and to the other provisions of this Chapter.

*Explanation 1.* – The above right shall not include any economic, financial, political or other secular activities that may be associated with religious practice.

*Explanation 2.* – The freedom guaranteed in this section shall not debar the State from enacting laws for the purpose of social welfare and reform.

- 21.** (1) The State recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union.
- (2) The State also recognizes Islam, Christianity, Hinduism and Animism as some of the religions existing in the Union at the date of the coming into operation of this Constitution.
- (3) The State shall not impose any disabilities or make any discrimination on the ground of religious faith or belief.
- (4) The abuse of religion for political purposes is forbidden; and any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution and may be made punishable by law.

## **CULTURAL AND EDUCATIONAL RIGHTS**

**22.** No minority, religious, racial or linguistic, shall be discriminated against in regard to admission into State educational institutions nor shall any religious instruction be compulsorily imposed on it.

## **ECONOMIC RIGHTS**

- 23.** (1) Subject to the provisions of this section, the State guarantees the rights of private property and of private initiative in the economic sphere.
- (2) No person shall be permitted to use the right of private property to the detriment of the general public.
- (3) Private monopolist organizations, such as cartels, syndicates and trusts formed for the purpose of dictating prices or for monopolizing the market or otherwise calculated to injure the interests of the national economy, are forbidden.
- (4) Private property may be limited or expropriated if the public interest so requires but only in accordance with law which shall



prescribe in which cases and to what extent the owner shall be compensated.

- (5) Subject to the conditions set out in the last preceding sub-section, individual branches of national economy or single enterprises may be nationalized or acquired by the State by law if the public interest so requires.

### **RIGHTS IN RELATION TO CRIMINAL LAW.**

**24.** No person shall be convicted of crime except for violation of a law in force at the time of the commission of the act charged as an offence, nor shall he be subjected to a penalty greater than that applicable at the time of the commission of the offence.

### **RIGHTS OF CONSTITUTIONAL REMEDIES**

**25.** (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of any of the rights conferred by this Chapter is hereby guaranteed.

- (2) Without prejudice to the powers that may be vested in this behalf in other Courts, the Supreme Court shall have power to issue directions in the nature of *Habeas Corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* appropriate to the rights guaranteed in this Chapter.

- (3) The right to enforce these remedies shall not be suspended unless, in times of war, invasion, rebellion, insurrection or grave emergency, the public safety may so require.

**26.** Every citizen, whether within or beyond the territories of the Union, shall be entitled to claim the protection of the Union in his relations with foreign States.

**27.** Except in times of invasion, rebellion, insurrection or grave emergency, no citizen shall be denied redress by due process of law for any actionable wrong done to or suffered by him.

**28.** The Parliament may by law determine to what extent any of the rights guaranteed by this Chapter shall be restricted or abrogated for the members of the Defence Forces or of the Forces charged with the maintenance of public order so as to ensure fulfilment of their duties and the maintenance of discipline.

**29.** The Parliament shall make laws to give effect to those provisions of this Chapter which require such legislation and to prescribe punishment for those

acts which are declared to be offences in this Chapter and are not already punishable.

### **CHAPTER III**

#### **RELATIONS OF THE STATE TO PEASANTS AND WORKERS**

- 30.** (1) The State is the ultimate owner of all lands.
- (2) Subject to the provisions of this Constitution, the State shall have the right to regulate, alter or abolish land tenures or resume possession of any land and distribute the same for collective or co-operative farming or to agricultural tenants.
- (3) There can be no large land holdings on any basis whatsoever. The maximum size of private land holding shall, as soon as circumstances permit, be determined by law.
- 31.** By economic and other measures the State may assist workers to associate and organize themselves for protection against economic exploitation. The State shall protect workers by legislation intended to secure to them the right of association, to limit their hours of work, to ensure to them the right to annual holidays and to improve working conditions, and as soon as circumstances permit by promoting schemes for housing and social insurance.

### **CHAPTER IV**

#### **DIRECTIVE PRINCIPLES OF STATE POLICY**

- 32.** The principles set forth in this Chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the care of the State but shall not be enforceable in any court of law.
- 33.** The State shall direct its policy towards securing to each citizen –
- (i) the right to work,
  - (ii) the right to maintenance in old age and during sickness or loss of capacity to work,
  - (iii) the right to rest and leisure, and
  - (iv) the right to education.

In particular the State shall make provision for free and compulsory primary education.

- 34.** The State shall pay special attention to the young and promote their education.
- 35.** The State shall promote with special care the educational and economic interests of the weaker and less advanced sections of the people and shall protect them from social injustice and all forms of exploitation.
- 36.** The State shall regard the raising of the standard of living of its people and the improvement of public health as among its primary duties.
- 37.** (1) The State shall ensure that the strength and health of workers and the tender age of children shall not be abused and that they shall not be forced by economic necessity to take up occupations unsuited to their sex, age and strength.
- (2) The State shall specially direct its policy towards protecting the interests of nursing mothers and infants by establishing maternity and infant welfare centres, children's homes and day nurseries and towards securing to mothers in employment the right to leave with pay before and after child birth.
- 38.** The State shall promote the improvement of public health by organizing and controlling health services, hospitals, dispensaries, sanatoria, nursing and convalescent homes and other health institutions.
- 39.** The State shall take special care of the physical education of the people in general and of the youth in particular in order to increase the health and working capacity of the people and in order to strengthen the defensive capacity of the State.
- 40.** The State shall ensure disabled ex-Servicemen a decent living and free occupational training. The children of fallen soldiers and children orphaned by wars shall be under the special care of the State.
- 41.** The economic life of the Union shall be planned with the aim of increasing the public wealth, of improving the material conditions of the people and raising their cultural level, of consolidating the independence of the Union and strengthening its defensive capacity.
- 42.** The State shall direct its policy towards giving material assistance to economic organizations not working for private profit. Preference shall be given to co-operative and similar economic organizations.
- 43.** All useful arts and sciences, research and cultural institutes and the study of Pali and Sanskrit shall enjoy the protection and support of the State.

- 44.** (1) The State shall direct its policy towards operation of all public utility undertakings by itself or local bodies or by peoples' co-operative organizations.
- (2) The State shall direct its policy towards exploitation of all natural resources in the Union by itself or local bodies or by peoples' co-operative organizations.

## **CHAPTER V**

### **THE PRESIDENT**

**45.** There shall be a President of the Union hereinafter called "the President" who shall take precedence over all other persons throughout the Union and who shall exercise and perform the powers and functions conferred on the President by this Constitution and by law.

**46.** The President shall be elected by both Chambers of Parliament in joint session by secret ballot. Subject of the provision of this Chapter, election to the office of the President shall be regulated by an Act of the Parliament.

**47.** (1) The President shall not be a member of either Chamber of Parliament.

(2) If a member of either Chamber of Parliament be elected President, he shall be deemed to have vacated his seat in that Chamber.

(3) The President shall not hold any other office or position of emolument.

**48.** (1) The President shall hold office for five years from the date on which he enters upon his office, unless before the expiration of the period he resigns or dies, or is removed from office, or becomes permanently incapacitated.

(2) No person shall serve as President for more than two terms in all.

**49.** No person shall be eligible for election to the office of President unless he

—

(i) is a citizen of the Union who was, or both of whose parents were, born in any of the territories included within the Union, and

(ii) is qualified for election to the Union Parliament.

**50.** The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter, or in the event of his predecessor's removal from office,

resignation, permanent incapacity or death, as soon as may be after his own election.

**51.** The president shall enter upon his office by making and subscribing publicly in the presence of both Chambers of Parliament assembled and of the judges of the Supreme Court, the following declaration: -

“I ... do solemnly and sincerely promise and declare that I will maintain the Constitution of the Union and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the Constitution and the law, that I will diligently avert every injury and danger to the Union and that I will dedicate myself to the service of the Union.

**52.** The President shall not leave the Union during his term of office save on the advice of the Union Government.

**53.** The President shall summon the Parliament for the purpose of electing a new President, during the three months preceding the expiration of his term of office.

**54.** (1) The President may be impeached for –

- (i) high treason;
- (ii) violation of the Constitution; or
- (iii) gross misconduct.

(2) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

(3) A proposal to either Chamber of Parliament to prefer a charge against the President under this section shall not be entertained except upon a notice of resolution in writing signed by not less than one-fourth of the total membership of that Chamber.

(4) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber supported by not less than two-thirds of the total membership thereof.

(5) When a charge has been preferred by one Chamber of Parliament, the other Chamber shall investigate the charge or cause the charge to be investigated.

(6) The President shall have the right to appear and to be represented at the investigation of the charge.

(7) If, as the result of the investigation, a resolution be passed, supported by not less than two-thirds of the total membership of the Chamber of Parliament by which the charge was investigated or caused to be investigated, declaring that the charge preferred

against the President has been sustained and that the office, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

**55.** The President shall have an official residence and shall receive such emoluments and allowances as shall be prescribed by law. Emoluments and allowances of the President shall not be varied during his term of office.

**56.** (1) The President shall, on the nomination of the Chamber of Deputies, appoint a Prime Minister who shall be the head of the Union Government.

(2) The President shall, on the nomination of the Prime Minister, appoint other members of the Union Government.

(3) The President shall, on the advice of the Prime Minister, accept the resignation or terminate the appointment of any member of the Union Government.

**57.** The Chamber of Deputies shall be summoned, prorogued or dissolved by the President on the advice of the Prime Minister:

Provided that, when the Prime Minister has ceased to retain the support of a majority in the Chamber, the President may refuse to prorogue or dissolve the Chamber on his advice and shall in that event forthwith call upon the Chamber to nominate a new Prime Minister:

Provided further that, if the Chamber fails to nominate a new Prime Minister within fifteen days, it shall be dissolved.

**58.** (1) Every Bill, passed or deemed to have been passed by both Chambers of Parliament, shall require the signature of the President for its enactment into law.

(2) The President shall promulgate every law enacted by the Parliament.

**59.** Subject to the provisions of this Constitution, the executive authority of the Union shall be vested in the President; but nothing in this section shall prevent the Parliament from conferring functions upon subordinate authorities, or be deemed to transfer to the President any functions vested in any court, judge, or officer, or any local or other authority by any existing law.

**60.** The right of pardon shall be vested in the President.

**61.** (1) The President may communicate with the Parliament by message or address on any matter of national or public importance.

- (2) The President may also address a message to the nation at any time on any matter.
- 62.** (1) The President shall not be answerable to either Chamber of Parliament or to any Court for the exercise or performance of the powers and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions.
- (2) The behaviour of the President may, however, be brought under review in either Chamber of Parliament for the purpose of section 54, or by any Court, tribunal or body, appointed or designated by either Chamber of Parliament for the investigation of its charges under the said section.
- (3) The validity of anything purporting to have been done by the President under this Constitution shall not be called in question on the ground that it was done otherwise than in accordance with the provisions contained or referred to in the next succeeding section.
- 63.** (1) The powers and functions conferred on the President by this Constitution shall be exercisable and performable by him only on the advice of the Union Government, save where it is provided by this Constitution that he shall act in his discretion or on the advice or nomination of or on receipt of any communication from any other person or body.
- (2) The question whether any, and if so, what advice, nomination or communication was tendered to or received by the President shall not be enquired into in any Court.
- 64.** (1) In the event of the death, resignation, removal from office, absence or incapacity whether temporary or permanent, of the President, or at any time at which the office of the President may be vacant, the powers and functions conferred on the President by this Constitution shall be exercised and performed by a Commission constituted as hereinafter provided.
- (2) The Commission shall consist of the following persons, namely, the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.
- (3) Such judge of the Supreme Court as has been appointed to perform the duties of the Chief Justice, or if there is no such judge, then the senior available judge of the Supreme Court, shall act as a member

of the Commission in place of the Chief Justice on any occasion on which the office of the Chief Justice is vacant or on which the Chief Justice is unable to act.

- (4) The Deputy Speaker of the Chamber of Nationalities shall act as a member of the Commission in the place of the Speaker of the Chamber of Nationalities on any occasion on which the office of the Speaker of the Chamber is vacant or on which the said Speaker is unable to act.
- (5) The Deputy Speaker of the Chamber of Deputies shall act as a member of the Commission in place of the Speaker of the Chamber on any occasion on which the office of the Speaker of the Chamber Deputies is vacant or on which the said Speaker is unable to act.
- (6) The Commission may act by any two of its members and may act notwithstanding a vacancy in its membership.
- (7) The provisions of this Constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by this Constitution shall apply to the exercise and performance of the said powers and function under this section.

## **CHAPTER VI**

### **PARLIAMENT**

#### **Part I. GENERAL**

**65.** The legislative power of the Union shall be vested in the Parliament which shall consist of the President, a Chamber of Deputies and a Chamber of Nationalities and which is in this Constitution called “the Parliament” or “the Union Parliament.”

**66.** There shall be a session of the Parliament once at least in every year so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

**67.** (1) The Chamber of Deputies shall, as soon as may be, choose two members of the Chamber to be respectively the Speaker and the Deputy Speaker thereof, and, so often as the office of the Speaker or Deputy Speaker becomes vacant, the Chamber shall choose



another member to be Speaker or Deputy Speaker, as the case may be.

- (2) A member holding office as Speaker or Deputy Speaker of the Chamber shall vacate his office if he ceases to be a member of the Chamber, may at any time resign his office by writing under his hand addressed to the President, and may be removed from his office by a resolution of the Chamber passed by a majority of the then members of the Chamber; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

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

- (3) While the office of the Speaker is vacant the duties of his office shall be performed by the Deputy Speaker or, if the office of the Deputy Speaker is also vacant, by such member of the Chamber as the President may appoint for the purpose, and during the absence of the Speaker from any sitting of the Chamber the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Chamber, or, if no such person is present, such other person as may be determined by the Chamber, shall act as Speaker.
- (4) There shall be paid to the Speaker and the Deputy Speaker of the Chamber such salaries as may be respectively determined by an Act of the Parliament.
- (5) The foregoing provisions of this section shall apply in relation to the Chamber of Nationalities as they apply in relation to the Chamber of Deputies with the substitution of references to the Chamber of Nationalities for references to the Chamber of Deputies.

- 68.** (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Parliament, there shall be freedom of speech in the Parliament, and no member of the Parliament shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Parliament or any Committee thereof, and no person shall be so liable in

respect of publication by or under the authority of a Chamber of the Parliament of any report, paper, votes, or proceedings.

- (2) In other respects, the privileges of members of either Chamber of Parliament shall be such as may, from time to time, be defined by an Act of the Parliament and, until so defined, shall be such as were immediately before the commencement of this Constitution enjoyed by members of the Legislature of Burma.

- 69.** (1) All question at any sitting or joint sitting of the Chambers shall, save as otherwise provided by this Constitution, be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as such, who shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.
- (2) The number of members necessary to constitute the quorum of either Chamber for the exercise of its powers shall be determined by its rules.
- (3) A Chamber of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.
- (4) Without prejudice to the generality of the foregoing provisions, the Chamber of Nationalities shall have power to act notwithstanding the failure of any unit to provide for its representation in the Chamber.

**70.** All official reports and publications of the Parliament or of either Chamber thereof shall be absolutely privileged.

**71.** The Parliament may make provision by law for the payment of salaries and allowances to the members of each Chamber in respect of their duties as public representatives and for the grant to them of such travelling and other facilities in connection with their duties as the Parliament may determine.

**72.** Every member of either Chamber of Parliament shall before taking his seat make and subscribe before the President, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the First Schedule to this Constitution.

- 73.** (1) No person may at the same time be a member of both Chamber of Parliament, and, if any person who is already a member of either Chamber becomes a member of the other Chamber, he shall forthwith be deemed to have vacant his first seat.
- (2) If a member of either Chamber –
- (a) becomes subject to any of the disqualifications mentioned in sub-section (1) of the next succeeding section; or
  - (b) by writing under his hand addressed to the President resigns his seat, his seat shall thereupon become vacant.
- (3) If for a period of thirty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

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

- 74.** (1) Any person who –
- (i) is under any acknowledgement of allegiance or adherence to a foreign Power, or is a subject or citizen or entitled to the rights and privileges of a subject or a citizen of a foreign Power; or
  - (ii) is an undischarged bankrupt or insolvent; or
  - (iii) is of unsound mind and stands so declared by a competent Court; or
  - (iv) hold any office of profit in the service of the Union or of any unit other than an office declared by an Act of the Parliament not to disqualify its holder; or
  - (v) whether before or after the commencement of this Constitution, has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of an offence or corrupt or illegal practice relating to elections which has been declared by an Act of the Legislature of Burma or of the Parliament to be an offence or practice entailing disqualification for membership of the Legislature or of the Parliament, unless such period had elapsed as may be specified in that behalf in the provisions of that Act; or

- (vi) whether before or after the commencement of this Constitution, has been convicted, in any of the territories included within the Union, of any other offence, and has, in either case, been sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the President may, in his discretion, allow in any particular case, has elapsed since his release; or
- (vii) having been nominated as a candidate for the Parliament or having acted as an election agent of any person so nominated, has failed to lodge a return of the election expenses within the time and in the manner required by any Order made under this Constitution or by any Act of the Parliament, unless five years have elapse from the date by which the return ought to have been lodged, or the President, in his discretion, had removed the disqualification;

Shall be disqualified for being as and for being a member of either Chamber:

Provided that a disqualification under paragraph (vii) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged, or of such longer period as the President acting in his discretion may, in any particular case, allow.

- (2) A person shall not be qualified for being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence:

Provided that, where the sentence does not exceed two years, the President may in his discretion remove such disqualification.

- (3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (v) or paragraph (vi) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but, during any period wherein his membership is preserved by this sub-section, he shall not sit or vote.

**75.** If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of sub-section (3) of section 74 or before he has complied with the requirements of section 72 he shall be liable in respect of each day on which he so sits or votes to a penalty of rupees one thousand to be recovered as a debt due to the Union Government.

**76.** (1) Every citizen, who has completed the age of twenty-one years and who is not placed under any disability or incapacity by this Constitution or by law, shall be eligible for membership of the Parliament.

(2) Every citizen, who has completed the age of eighteen years and who is not disqualified by law and complies with the provisions of the law regulating elections to the Parliament, shall have the right to vote at any election to the Parliament.

(3) There shall be no property qualification for membership of the Parliament or for the right to vote at elections to the Parliament.

(4) No law shall be enacted or continued placing any citizen under disability or incapacity for membership of the Parliament on the ground of sex, race or religion or disqualifying any citizen from voting at elections to the Parliament on any such ground:

Provided that notwithstanding anything contained in section 21 (3), members of any religious order may by law be debarred from voting at any such elections or from being a member of either Chamber of Parliament.

(5) Voting shall be by secret ballot.

**77.** Subject to the provisions of this Constitution, all matters relating to elections for either Chamber of Parliament including the delimitation of constituencies, the filling of casual vacancies, and the decision of doubts and disputes arising out of or in connection with such elections shall be regulated in accordance with law.

**78.** The Parliament may by law prescribe the conditions under and the manner in which a member of either Chamber of Parliament may be recalled.

**79.** Every member of the Union Government and the Attorney-General shall have the right to speak in, and otherwise take part in the proceedings of, either Chamber, any joint sitting of the Chambers and any Committee of the Parliament of which he may be named a member, but he shall not by virtue of this section be entitled to vote.

- 80.** (1) Each Chamber of the Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.
- (2) The President, after consultation with the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.
- (3) At a joint sitting of the two Chambers the Speaker of the Chamber of Nationalities, or in his absence the Speaker of the Chamber of Deputies or such person as may be determined by rules of procedure made under this section, shall preside.
- 81.** No discussion shall take place in the Parliament with respect to the conduct of any judge of the Supreme Court or of the High Court in the discharge of his duties, except upon a resolution for the removal of the judge as provided in this Constitution.
- 82.** (1) The validity of any proceedings in the Parliament shall not be called in question in any Court on the ground of any irregularity of procedure.
- (2) The Speaker of the Chamber of Deputies or the Speaker of the Chamber of Nationalities or any other member of either Chamber of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business or for maintaining order in the Chamber shall not be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

## **PART II. – CHAMBER OF DEPUTIES**

- 83.** (1) The Chamber of Deputies shall be composed of members who represent constituencies determined by law. Provision shall, however, be made to reserve such number of seats as may be proportionate to the population of Karens to be filled by their representatives.
- (2) The number of members of this Chamber shall be, as nearly as practicable, twice the number of member of the Chamber of Nationalities. The number of members shall from time to time be fixed by law but the total number of the members of the Chamber

of Deputies shall not be fixed at less than one member for each 100,000 of the population, or at more than one member for each 30,000 of the population.

(3) The ratio between the number of members to be elected at any time for a constituency and the population of that constituency, as ascertained at the last preceding census, shall, so far as practicable, be the same for all constituencies throughout the Union, except in the case of the constituencies of the Special Division of the Chins (referred to in Part V of Chapter IX) and the Karenni State, in respect of which the ratio may be higher.

(4) The Parliament shall revise the constituencies at least once in every ten years, with due regard to changes in the distribution of the population, but any alternation in the constituencies shall not take effect until the termination of the then existing Parliament.

**84.** (1) The general election for members of the Chamber of Deputies shall take place not later than sixty days after the dissolution of the Chamber. Polling at every general election shall, as far as practicable, take place on the same day throughout the Union.

(2) The Chamber of Deputies shall meet within sixty days from the polling day.

**85.** Every Chamber of Deputies shall continue for four years from the first meeting of the Chamber:

Provided that the Chambers of Parliament may by resolution passed by not less than two-thirds of the members present and voting at a joint sitting extend the said period from year to year in the event of a grave emergency declared by Proclamation under section 94:

Provided further that the Chamber of Deputies may be dissolved by the President at any time as provided by section 57.

**86.** (1) As soon as possible after the presentation to the Chamber of Deputies under Chapter VII of the estimates of receipts and estimates of expenditure of the Union for any financial year, the Chamber shall consider the estimates.

(2) Save in so far as may be provided by specific enactment in each case, the legislation required by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.

- (3) The Chamber of Deputies shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys, unless the purpose of the appropriation shall have been recommended to the Chamber by the Union Government.

### **PART III. CHAMBER OF NATIONALITIES**

**87.** There shall be one hundred and twenty-five seats in the Chamber of Nationalities as allocated in the Second Schedule to this Constitution.

**88.** (1) A dissolution of the Chamber of Deputies shall operate also as a dissolution of the Chamber of Nationalities.

- (2) The general election for the Chamber of Nationalities shall be completed not later than the fifteenth day from the first meeting of the Chamber of Deputies held after the dissolution.

**89.** The first meeting of the Chamber of Nationalities after the general election shall take place on a date to be fixed by the President on the advice of the Prime Minister.

### **PART IV. POWER OF THE PARLIAMENT**

**90.** Subject to the provisions of this Constitution, the sole and exclusive power of making laws in the Union shall be vested in the Parliament: Provided that an Act of the Parliament may authorize any person or authority therein specified to make rules and regulations consonant with the Act and having the force of law, subject, however, to such rules and regulations being laid before each Chamber of Parliament at its next ensuing session and subject to annulment by a motion carried in both Chambers within a period of three months of their being so laid, without prejudice, however, to the validity of any action previously taken under the rules or regulations.

**91.** Provision may, however, be made by law on principles of regional autonomy for delegating to representative bodies of such regions as may be defined in the law, specified powers in administrative, cultural and economic matters. A law embodying such provisions shall determine the rights, powers and duties of such representative bodies and their relations to the Parliament and to the Union Government.

**92.** (1) The Parliament shall have power to make laws of the whole or any part of the Union except in so far as such power is assigned by the next succeeding sub-section exclusively to the Shan Councils. For



greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that, notwithstanding anything in the next succeeding sub-section, the exclusive legislative authority of the Parliament shall extend to all matters enumerated in List I of the Third Schedule to this Constitution (hereinafter called “the Union Legislative List”). Any matter coming within any of the classes of subjects enumerated in the said List, shall not be deemed to come within the class of matters of a local or private nature comprised in the list of subjects assigned by the next succeeding sub-section exclusively to the State Councils.

- (2) Each State Council shall have power exclusively to make laws for the State or any part thereof with respect to any of the matters enumerated in List II of the said Schedule (hereinafter called “the State Legislative List”).
- (3) Any State Council may by resolution surrender any of its territories or any of its powers and rights to the Union.

**93.** The powers exercisable by the Union by reason of the entry in the Union Legislative List relating to the regulation of forces, mines and oil-fields and mineral development, shall be subject to the condition that before the issue of any certificate, licence, or other form of authorization, for the exploitation, development or utilization of any forest, mine or oil-field, the issuing authority shall consult the Union Minister for the State concerned.

- 94.** (1) Notwithstanding anything in section 92, the Parliament shall, if the President has declared by Proclamation (in this Constitution referred to as a “Proclamation of Emergency”), that a grave emergency exists whereby the security of the Union is threatened, whether by war or internal disturbance, or that a grave economic emergency affecting the Union has arisen in any part of the Union, have power to make laws for a State or any part thereof with respect to any of the matters enumerated in the State Legislative List.
- (2) Nothing in this section shall restrict the power of a State Council to make any law which, under this Constitution it has power to make, but if any provision of a State law is repugnant to any provision of a Union law which the Parliament has under this section power to make, the Union law, whether passed before or after the State law,

shall prevail, and the State law shall, to the extent of the repugnancy, but so long as the Union law continues to have effect, be inoperative.

- (3) A Proclamation of Emergency –
- (a) may be revoked by a subsequent Proclamation, and
  - (b) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Chambers of Parliament:

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

- (4) A law made by the Parliament which it would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before expiration of the said period.

**95.** If it appears to the State Councils of two or more States to be desirable that any of the matters enumerated in the State Legislative List should be regulated in these States by an Act of the Parliament, and if resolutions to that effect are passed by those State Councils, it shall be lawful for the Parliament to pass an Act for regulating that matter accordingly; but any Act so passed may, as respects any State to which it applies, be amended or repealed by an Act of the State Council.

- 96.** (1) All revenue from the sources enumerated in the Fourth Schedule to this Constitution shall form part of the revenues of the State in or by which they are raised or received.
- (2) All revenues other than such as are assigned to the States by the last preceding sub-section shall form part of the revenues of the Union:

Provided that the Union may make such grants or contributions out of its revenue in aid of the revenues of the units as it may determine to be necessary upon the recommendations of any Board or other authority appointed for the purpose.

- 97.** (1) The right to raise and maintain military, naval and air forces is vested exclusively in the Parliament.
- (2) No military, naval or air forces, or any military or semi-military organization of any kind (not being a police force maintained under the authority of any unit solely for duties connected with the maintenance of public order) other than the forces raised and maintained by the Union with the consent of the Parliament shall be raised or maintained for any purpose whatsoever.

## **PART V. LEGISLATION**

- 98.** Every Bill initiated in and passed by the Chamber of Deputies shall be sent to the Chamber of Nationalities and may, unless it be a Money Bill, be amended in the Chamber of Nationalities and sent back to the Chamber of Deputies for its consideration.
- 99.** Every Bill other than a Money Bill, may be initiated in the Chamber of Nationalities and if passed by the Chamber, shall be sent to the Chamber of Deputies which may amend the Bill and sent it back to the Chamber of Nationalities for its consideration.
- 100.** A Bill passed by one Chamber and accepted by the other Chamber shall be deemed to have been passed by both Chambers of Parliament.
- 101.** A Bill which appropriates revenue or money for the ordinary annual services of the Government shall deal only with such appropriations.
- 102.** Bills imposing taxation shall deal only with imposition of taxation and any provision therein dealing with any other matter shall be of no effect.

### **Money Bills**

- 103.** Money Bills shall be initiated in the Chamber of Deputies only.
- 104.** Every Money bill passed by the Chamber of Deputies shall be sent to the Chamber of Nationalities for its recommendations.
- 105.** (1) Every Money Bill sent to the Chamber of Nationalities for its recommendations shall, within twenty one days after it shall have been sent to the Chamber of Nationalities, be returned to the Chamber of Deputies which may accept or reject all or any of the recommendations of the Chamber of Nationalities.
- (2) If such Money Bills is not returned by the Chamber of Nationalities to the Chamber of Deputies within twenty-one days or is returned within twenty-one days with recommendations which the Chamber

of Deputies does not accept, it shall be deemed to have been passed by both Chambers at the expiration of twenty-one days.

- 106.** (1) A Money Bill means a Bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alternation or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the revenues of the Union or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money, the raising or guaranteeing of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.
- (2) In this definition the expressions “taxation”, “revenues of the Union” and “loan”, respectively, do not include any taxation, money or loan raised by local authorities or bodies for local purposes.
- 107.** (1) The Speaker of the Chamber of Deputies shall certify any Bill which in his opinion is a Money Bill to be “a Money Bill” and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.
- (2) The Chamber of Nationalities may, by a resolution passed at a sitting at which not less than two-thirds of the total members are present, request the President to refer the question whether the Bill is or is not “a Money Bill” to a Committee of Privileges.
- (3) If the President in his discretion decides to accede to the request, he shall appoint a Committee of Privileges consisting of an equal number of members of the Chamber of Deputies and of the Chamber of Nationalities and a Chairman who shall be a judge of the Supreme Court.
- (4) The President shall refer the question to the Committee of Privileges so appoint and the Committee shall report its finding thereon to the President within twenty-one days after the day on which the Bill was sent to the Chamber of Nationalities.
- (5) The decision of the President, in his discretion, on such report shall be final.
- 108.** If the President, in his discretion, decides not to accede to the request of the Chamber of Nationalities or if the Committee of Privileges fails to report

within the time hereinbefore specified, the certificate of the Speaker of the Chamber of Deputies shall stand confirmed.

**109.** If one Chamber passes any other Bill, and the other Chamber rejects or fails to pass it, or passes it with amendments to which the Chamber where the Bill originated will not agree, the President shall convene a joint sitting of the two Chambers.

The members present at the joint sitting may deliberate and shall vote together upon the Bill as last passed by the Chamber where the Bill originated and upon amendments, if any; which have been made therein by the other Chamber and if the Bill with the amendments, if any, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed to have been passed by both Chambers:

Provided that at a joint sitting –

- (a) if the Bill, having been passed by one Chamber is rejected by the other Chamber and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments, if any, as are made necessary by the delay in the passage of the Bill;
- (b) if the Bill is, however, passed by the other Chamber with amendments and returned to the Chamber which it originated, only such amendments as aforesaid and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed, shall be proposed to the Bill;

and the decision of the person presiding as to the amendments which are admissible under this section shall be final.

**110.** (1) If at any time when both Chambers of Parliament are not in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require. An Ordinance promulgated under this section shall have the same force and effect as an Act of the Parliament assented to by the President.

- (2) Every such Ordinances shall be laid before both Chambers of Parliament within forty-five days from the date of promulgation thereof, unless it shall have been withdrawn earlier by the President, and shall cease to operate at the expiration of fifteen

days from the re-assembly of the Chamber of Deputies or the Chamber of Nationalities, whichever is later.

Provided that the President may, with the consent of both Chambers of Parliament, extend the Ordinance for such further period as may be deemed necessary.

- (3) If the Ordinance shall have been withdrawn within forty-five days from the date of its promulgation, it shall be laid before the Parliament in its next ensuing session.
- (4) If and in so far as an Ordinance under this section makes any provision which the Parliament would not under this Constitution be competent to enact, it shall be void.

### **Signing and Promulgation**

- 111.** (1) As soon as any Bill shall have been passed by both Chambers of Parliament, it shall be presented to the President for his signature and promulgation as an Act in accordance with the provisions of this section.
- (2) Save as otherwise provided by this Constitution, every Bill so presented to the President shall be signed by him not later than seven days after the date of presentation.
- (3) If any Bill is not signed by the President within seven days after the date of presentation, the same shall become an Act in the like manner as if he had signed it on the last of the said seven days.
- 112.** (1) Every Bill signed or deemed to have been signed by the President under this Constitution shall become an Act on and from the date on which the Bill shall have been signed or be deemed to have been signed.
- (2) Every such Act shall be promulgated by the President by publication under his direction in the official gazette. Every Act shall come into force on the date of such promulgation unless the contrary intention is expressed.
- 113.** The signed texts of Acts and Ordinances shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed texts shall be conclusive evidence of the provisions of such Acts and Ordinances.

## CHAPTER VII

### THE UNION GOVERNMENT

**114.** The Union Government shall consist of the Prime Minister and other members appointed under section 56.

**115.** The Government shall be collectively responsible to the Chamber of Deputies.

**116.** A member of the Government who for any period of six consecutive months is not a member of the Parliament shall at the expiration of the period cease to be a member of the Government.

**117.** (1) The Prime Minister may resign from office at any time by placing his resignation in the hands of the President.

(2) Any other member of the Government may resign from office by placing his resignation in the hands of the Prime Minister for submission to the President and the resignation shall take effect upon its being accepted by the President under the next succeeding sub-section.

(3) The President shall accept the resignation of a member of the Government, other than the Prime Minister, if so advised by the Prime Minister.

**118.** The Prime Minister may, at any time, for reasons which to him seem sufficient request a member of the Government to resign; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Prime Minister so advises.

**119.** The Prime Minister shall resign from office upon his ceasing to retain the support of a majority in the Chamber of Deputies unless on his advice the President dissolves the Parliament under section 57 and on the re-assembly of the Parliament after the dissolution the Prime Minister secures the support of a majority in the Chamber of Deputies.

**120.** (1) If the Prime Minister at any time resigns from office, the other members of the Government shall be deemed also to have resigned from office, but the Prime Minister and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

(2) The members of the Government in office at the date of dissolution of the Parliament shall continue to hold office until their successors shall have been appointed.

- 121.** (1) All executive action of the Union Government shall be expressed to be taken in the name of the President.
- (2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.
- (3) The President shall make rules for the transaction of the business of the Union Government, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the President is by or under this Constitution required to act in his discretion.

Without prejudice to the generality of the foregoing provisions the allocation of business may be regionwise as well as subjectwise.

**122.** Subject to the provisions of this Constitution, the executive authority of the Union extends

- (a) to the matters with respect to which the Parliament has power to make laws; and
- (b) to the government, in accordance with the provisions of any treaty or agreement in this behalf, of any Armed Forces not raised in the Union that may, with the consent of the Government of the Union, be stationed in the Union or placed at the disposal of the Union.
- 123.** (1) War shall not be declared and the Union shall not participate in any war save and except with the assent of the Parliament.
- (2) In case of actual or imminent invasion, however, the Government may take whatever steps they may consider necessary for the protection of the Union, and the Parliament if not sitting shall be summoned to meet at the earliest possible date.

**124.** The Prime Minister shall keep the President generally informed on all matter of domestic and international policy.

- 125.** (1) The Government shall prepare estimates of receipts and estimates of expenditure of the Union for each financial year, and shall present them to the Chamber of Deputies for consideration.
- (2) The procedure to be adopted in the Chambers of Parliament with respect to the submission of estimates of expenditure, the



appropriation of the revenue of the Union and all matters connected therewith shall, in so far as provision is not made in that behalf by this Constitution, be regulated in accordance with law.

### **ATTORNEY – GENERAL**

- 126.** (1) The President shall appoint a person, being an advocate of the High Court, to be Attorney - General on the nomination of the Prime Minister.
- (2) It shall be the duty of the Attorney – General to give advice to the Government upon legal matters and to perform such other duties of a legal character, as may, from time to time, be assigned to him by the President.
- 127.** (1) The Attorney – General may, at any time, resign from office by placing his resignation in the hands of the Prime Minister for submission to the President.
- (2) The Prime minister may, for reasons which to him seem sufficient, request the resignation of the Attorney – General.
- (3) In the event of failure to comply with the request, the appointment of the Attorney – General shall be terminated by the President if the Prime Minister so advises.
- (4) The Attorney – General shall resign from office upon the resignation of the Prime Minister, but may continue to carry on his duties until the successor to the Prime Minister shall have been appointed.
- (5) Subject to the foregoing provisions of this Constitution, the office of the Attorney – General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

### **AUDITOR – GENERAL**

**128.** There shall be an Auditor – General to control on behalf of the Union all disbursements and to audit all accounts of moneys administered by and under the authority of the Parliament and the State Councils.

**129.** The Auditor – General shall be appointed by the President with the approval of both Chambers of Parliament and shall only be removed from office in the like manner and on the like grounds as a judge of the High Court. The Auditor – General shall not be a member of either Chamber of Parliament nor shall he hold any other office or position of emolument. He shall not be eligible

for further office in the service of the Union or the States after he has ceased to hold office.

**130.** Neither the salary of the Auditor – General nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

**131.** The Auditor – General shall submit to the Chamber of Deputies, at such periods as may be determined by law, reports relating to the accounts of the Union and the States.

**132.** Subject to the foregoing provisions, the terms and conditions of the office of the Auditor – General shall be determined by law.

## **CHAPTER VIII**

### **UNION JUDICIARY**

**133.** Justice throughout the Union shall be administered in Courts established by this Constitution or by law and by judges appointed in accordance therewith.

**134.** The Courts shall comprise Courts of first instance and Courts of appeal: -

- (a) The Courts of first instance shall include a High Court which shall, subject to law, have original and appellate jurisdiction and power to determine all matters and questions whether of law or of fact.
- (b) The head of the High Court shall be called “the Chief Justice of the High Court”.

**135.** (1) The High Court shall have exclusive original jurisdiction –

- (a) in all matters arising under any treaty made by the Union;
- (b) in all disputes between the Union and a unit or between one unit and another;
- (c) in such other matters, if any, as may be defined by law.

- (2) If the High Court is satisfied that a case pending in any inferior Court involves or is likely to involve substantially a question of the validity of any law having regard to the provisions of this Constitution, the High Court shall transfer the case to itself for trial.

**136.** (1) The Court of final appeal shall be called “the Supreme Court”.

- (2) The head of the Supreme Court shall be called “the Chief Justice of the Union”.

- (3) Without prejudice to the powers conferred upon the Supreme Court by any other provisions of this Constitution, the Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other Courts as may be prescribed by law.

**137.** No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.

**138.** The decisions of the Supreme Court shall in all cases be final.

**139.** (1) Every person appointed a judge of the Supreme Court and of the High Court under this Constitution shall make and subscribe the following declaration: -

“I ... do solemnly and sincerely promise and declare that I will duly and faithfully to the best of my knowledge and ability execute the office of the Chief Justice (or judge as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws.”

(2) This declaration shall be made and subscribed by the Chief Justice of the Union in the presence of the President, and by each of the other judges of the Supreme Court and of the judges of the High Court in the presence of the Chief Justice of the Union or the senior available judge of the Supreme Court.

(3) The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than ten days after the date of his appointment or such later date as may be determined by the President.

(4) Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have declined to accept the appointment.

**140.** (1) The Chief Justice of the Union shall be appointed by the President by an order under his hand and seal, with the approval of both Chambers of the Parliament in joint sitting.

(2) All the other judges of the Supreme Court and all the judges of the High Court shall be appointed by the President by an order under his hand and seal, with the approval of both Chambers of the Parliament in joint sitting.

**141.** All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the laws.

**142.** (1) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of the Union who was or whose parents were born in any of the territories included within the Union, or unless he has been for at least five years a citizen of the Union; and

(a) has been for at least five years a judge of the High Court of Judicature at Rangoon of the High Court established under this Constitution; or

(b) is an advocate of the High Court of at least fifteen years' standing:

Provided that a person shall not be qualified for appointment as Chief Justice of the Union unless he –

(i) is, or when first appointed to judicial office was, an advocate, and

(ii) is an advocate of at least fifteen years' standing.

(2) A person shall not be qualified for appointment as a judge of the High Court unless he is a citizen of the Union; and

(a) is an advocate of at least ten years' standing; or

(b) has for at least five years held judicial office in Burma or in the Union not inferior to that of a district and secession judge or Chief Judge of the Rangoon City Civil Court:

Provided that a person shall not be qualified for appointment as the Chief Justice of the High Court unless he –

(i) is, or when first appointed to judicial office was, an advocate, and

(ii) an advocate of at least fifteen years' standing.

(3) In computing for the purpose of this section the standing of an advocate, any period during which he has held judicial office after he became an advocate shall be included.

**143.** (1) A judge of the Supreme Court or the High Court may by resignation under his hand addressed to the President resign his office.

- (2) A judge of the Supreme Court or of the High Court shall not be removed from office except for proved misbehaviour or incapacity.
- (3) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.
- (3) A personal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolution signed by not less than one-fourth of the total membership of that Chamber.
- (4) A personal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolution signed by not less than one-fourth of the total membership of that Chamber.
- (5) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber, supported by a majority of the members present.
- (6) Where the charge relates to a judge of the Supreme Court it shall be investigated by a Special Tribunal consisting of the President or a person appointed by him in his discretion, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

Where the charge relates to a judge of the High Court it shall be investigated by a Special Tribunal consisting of the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

- (7) The judge against whom the charge is preferred shall have the right to appear and to be represented at the investigation of the charge.
- (8) The Special Tribunal shall, after investigation, submit its report to the Chamber by which the charge was preferred. The finding of the Special Tribunal declaring that the charge has not been proved, if unanimous, shall be final. But in all other cases, the report of the Special Tribunal shall be considered by both Chambers of Parliament in joint sitting.

If, after consideration, a resolution be passed supported by a majority of the members present and voting at the joint sitting declaring that the charge preferred against the judge has been proved and that the misbehaviour was, or incapacity is, such as to render him unfit to continue in office, the President

shall forthwith by an order under his hand and seal remove from office the judge to whom it relates.

**144.** Neither the salary of a judge of the Supreme Court or of the High Court nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

**145.** If the office the Chief Justice of the Union or of the Chief Justice of the High Court becomes vacant, or if either of them 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 to the vacant office has entered on the duties thereof, or until the Chief Justice of the Union or of the High Court, as the case may be, has resumed his duties, be performed by such other judge of the Supreme Court or of the High Court as the President may appoint for the purpose.

**146.** (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the Court, owing to a vacancy or vacancies, or to the absence through illness or on leave or in the discharge of other duties assigned by statute or otherwise, or to the disqualification of a judge or judges, the Chief Justice or any acting Chief Justice of the Union, or in their absence, the senior puisne judge, may in writing request the attendance at the sitting of the Court, for such period as may be necessary, of a judge of the High Court, to be designated in writing by the Chief Justice or any acting Chief Justice or in their absence the senior puisne judge of the Supreme Court.

(2) It shall be the duty of the judge, whose attendance has been so requested or who has been so designated, in priority to the other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance shall be required, and while so attending he shall possess the powers and privileges and shall discharge the duties of a puisne judge of the Supreme Court.

**147.** If the office of any puisne judge of the High Court becomes vacant, or if any such judge is by reason of absence, or for any other reason, unable to perform the duties of his office, the President may in his discretion appoint a person duly qualified for appointment as a judge to act as a judge of the Court,

and the person so appointed shall, unless the President in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Court, until some person appointed under sub-section (2) of section 140 of this Constitution to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.

**148.** The Supreme Court and the High Court shall be courts of record and shall sit in the capital city of the Union and at such other place or places as the President may, after consultation with the Chief Justice of the Union from time to time, appoint:

Provided that one or more judges of the High Court shall sit at such place in the Shan State as the President may, after consultation with the Chief Justice of the Union from time to time, appoint.

**149.** Subject to the foregoing provisions of this Constitution relating to the Courts, the following matters shall be regulated in accordance with law: -

- (i) The number of judges of the Supreme Court and of the High Court, the remuneration, age of retirement and pension of such judges; and
- (ii) The constitution and organization of such Courts, the distribution of business among the Courts and judges, their jurisdiction and all matters of procedure.

**150.** Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature by any person or body of persons duly authorized by law to exercise such functions or powers notwithstanding that such person or such body or persons is not a judge or a Court appointed or established as such under this Constitution.

**151.** (1) If at any time it appears to the President that a question of law has arisen, or is likely to raise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration, and the Court may, after such hearing as it thinks fit, report to the President thereon.

- (2) No report shall be made under this section save in accordance with an opinion delivered in open Court with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this sub-section shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion.

**152.** The law declared by the Supreme Court shall, so far as applicable, be recognized as binding on, and shall be followed by, all Courts within the territories subject to the jurisdiction of the Union.

**153.** The Parliament may make provision by an Act for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by under this Constitution.

## **CHAPTER IX**

### **PART I. THE SHAN STATE**

#### **The Shan State Council**

**154.** (1) All the members of the Parliament representing the Shan State shall constitute the Shan State Council.

(2) All the representative from the Shan State in the Chamber of Nationalities shall be elected by the Saohpas of the Shan State from among themselves. The Saohpas shall not be eligible for membership of the Chamber of Deputies.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacant his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

**155.** The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

**156.** When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

**157.** (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it



thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purposes of this section, be the decision of the Court.

- (3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.
- (4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.
- (5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

**158.** The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Shan State.

**159.** The Head of the Shan State may from time to time summon and prorogue the State Council: Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

## **GOVERNMENT OF THE SHAN STATE**

**160.** A member of the Union Government to be known as the Minister for the Shan State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Shan State Council from among the members of the Parliament representing the Shan State. The Minister so appointed shall also be the Head of the Shan State for the purposes of this Constitution.

- 161.** (1) The Head of the State shall be in charge of the administration of the State that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.
- (2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services to postings and transfers, and to disciplinary matters relating to these services.
- 162.** (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.
- (2) The Head of the State shall consult the State Council in all other matters relating to the State.
- (3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercise of his functions.
- 163.** The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.
- 164.** (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.
- (2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

**165.** Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State ministers, and their relations to each other and to the Union Government shall be determined by law.

## **PART II. THE KACHIN STATE**

### **The Kachin State Council**

- 166.** (1) All the members of the Parliament representing the Kachin State shall constitute the Kachin State Council.
- (2) Of the twelve seats in the Chamber of Nationalities six shall be filled by representatives of the Kachins and the other six by those of the non-Kachins of the Kachin State.
- (3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.
- 167.** (1) A Bill prejudicially affecting any right or privilege which the Kachins or the non-Kachins, as a class or community, enjoyed immediately before the commencement of this Constitution, shall not be deemed to have been passed by the Council unless the majority of the members representing the Kachins or the non-Kachins, as the case may be, present and voting, have voted in its favour.
- (2) If any question arises in the State Council whether a Bill is of the character described in the last preceding sub-section, the presiding officer shall take the vote of the members representing the Kachins and those representing the non-Kachins in the Council separately on such question and if a majority of either class of members vote in the affirmative, the Bill shall be deemed to be of the character mentioned.
- 168.** The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.
- 169.** When a Bill has passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill

within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

- 170.** (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.
- (2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purpose of this section, be the decision of the Court.
- (3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.
- (4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.
- (5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

**171.** The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Kachin State.

**172.** The Head of the Kachin State may from time to time summon and prorogue the State Council: Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between that last sitting of the Council in one session and its first sitting in the next session.

## **GOVERNMENT OF THE KACHIN STATE**

**173.** A member of the Union Government to be known as the Minister for the Kachin State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Kachin State Council from among the Kachin members of the Parliament representing the Kachin State. The Minister so appointed shall also be the Head of the Kachin State for the purpose of this Constitution.

**174.** (1) The Head of the State shall be in charge of the administration of the State; that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services:

Provided that in respect of areas where the non-Kachins form the majority of the population, the Head of the State shall act only in consultation with the members representing the non-Kachins in the Cabinet in all such matters.

**175.** (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the States shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decision and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercises of his functions:

Provided that not less than one-half of the members of the Cabinet shall be non-Kachins.

**176.** The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council, a report upon all matter relating to the State, and

recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

**177.** (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

**178.** The provisions of Chapter X of this Constitution shall not apply to the Kachin State.

**179.** Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State Ministers, and their relations to each other and to the Union Government shall be determined by law.

### **PART III. THE KAREN STATE**

**180.** (1) The following areas, viz.,

- (a) the Karenni State,
- (b) the Salween District and
- (c) such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President shall, if the majority of the people of these three areas and of the Karens living in Burma outside these areas so desire, form a constituent unit of the Union of Burma to be known as the Karen State, which shall thereupon have the same status as the Shan State.

(2) The procedure for ascertaining the desire of the majority in each of the case mentioned in the last preceding sub-section shall be such as may be prescribed by the law of the Union.

**KAW-THU-LAY**

**181.** Until the Karen State is constituted under the last preceding section, the Salween District, and such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President, shall be a Special Region to be known as *Kaw-thu-lay*, subject to the following provisions: -

- (1) All the members of the Chamber of Deputies representing Karens shall constitute the Karen Affairs Council. They shall co-opt not more than five members of the Chamber of Nationalities representing Karens.
- (2) A Member of the Union Government to be known as “the Minister for Karen Affairs” shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Karen Affairs Council, from amongst the members of the Parliament representing Karens.
- (3) Subject to the powers of the Union Government –
  - (i) the general administration of the *Kaw-thu-lay* Special Region and in particular all matters relating to recruitment to the civil service in *Kaw-thu-lay*, to postings and transfers, and to disciplinary matters relating to these services;
  - (ii) all matter relating to schools and cultural institutions for Karens, and
  - (iii) all matters affecting the special rights of the Karens under this Constitution shall be under the superintendence, direction and control of the Minister for Karen Affairs.
- (4) The Karen Affairs Council shall aid and advise the Minister in the discharge of his duties.
- (5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.
- (6) Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

## PART IV. THE KARENNI STATE

- 182.** (1) The territory heretofore known as Mongpai State in the Federated Shan States shall be acceded to the Karenni State if the majority of the people of the territory so desire.
- (2) The procedure for ascertaining the desire of the majority shall be such as may be prescribed by law.
- 183.** (1) Until the Parliament otherwise provides –
- (i) The *Sawphyas* of Kantarawaddy, Bawlake and Kyebogyi shall represent the Karenni State in the Chamber of Nationalities;
- (ii) The *Saohpa* of Mongpai shall also be one of the representatives of the Karenni State in the Chamber of Nationalities on the accession of Mongpai to the Karenni State under the last preceding section;
- (iii) The *Sawphyas* and the *Saohpa* shall not be eligible for membership of the Chamber of Deputies.
- (2) All the members of the Parliament representing the Karenni State shall constitute the Karenni State Council.
- (3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.
- 184.** The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.
- 185.** When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.
- 186.** (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.
- (2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it



thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference.

- (3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.
- (4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.
- (5) When the President has signed a Bill presented to him under the last preceding section, whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

**187.** The signed text of every Act shall be enrolled for record in the office of the Register of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Karenni State.

**188.** The Head of the Karenni State may from time to time summon and prorogue the State Council; Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

### **GOVERNMENT OF THE KARENNI STATE**

**189.** A member of the Union Government to be known as the Minister for the Karenni State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Karenni State Council from among the members of the Parliament representing the Karenni State. The Minister so appointed shall also be the Head of the Karenni State for the purposes of this Constitution.

**190.** (1) The Head of the State shall be in charge of the administration of the State, that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

- (2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matter relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services.
- 191.** (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.
- (2) The Head of the State shall consult the State Council in all other matters relating to the State.
- (3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council may at its first meeting after a general election elect from among its members or otherwise a State Minister or Ministers to aid and advise the Head of the State in the exercise of his functions.
- 192.** The Head of the States shall give or cause to be given an account of his work to the State Council in each ordinary secession, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measure as he thinks fit for promoting the general welfare.
- 193.** (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.
- (2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.
- 194.** Subject to the provisions of this Constitution, all matter relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the State Minister or Ministers and their relations to each other and to the Union Government shall be determined by law.

**195.** All the provisions in this Part (Part IV of Chapter IX) shall cease to have effect if and when the Karen State is constituted under section 180.

## **PART V. SPECIAL DIVISION OF THE CHINS**

**196.** There shall be a Special Division of the Chins comprising such areas in the Chin Hills District and the Arakan Hill Tracks as may be determined by the President.

**197.** (1) A Chin Affairs Council shall be constituted consisting of all the members of the Parliament representing the Chins.

(2) A member of the Union Government to be known as “the Minister for Chin Affairs” shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Chin Affairs Council, from amongst the members of the Parliament representing the Chins.

(3) Subject to the powers of the Union Government –

- (i) the general administration of the Special Division and in particular all matters relating to recruitment to the civil services in the Special Division, to postings and transfers, and to disciplinary matters relating to these services, and
- (ii) all matters relating to schools and cultural institutions in the Special Divisions shall be under the superintendence, direction and control of the Minister in the discharge of his duties.

(4) The Chin Affairs Council shall aid and advise the Minister in the discharge of his duties.

(5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.

**198.** Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

## **PART VI. NEW STATES**

**199.** The Parliament may by an Act admit to the Union a new State upon such terms and conditions including the extent of representation of the State in the Parliament as may be specified in the Act.

**200.** The Parliament may by an Act, with the consent of the Council of every State whose boundaries are affected thereby –

- (a) establish a new unit;
- (b) increase the area of any unit;
- (c) diminish the area of any unit;
- (d) alter the boundaries of any unit;

and may, with the like consent, make such supplemental, incidental and consequential provisions as the Parliament may deem necessary or proper.

## **CHAPTER X. RIGHT OF SECESSION**

**201.** Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed.

**202.** The right of secession shall not be exercised within ten years from the date on which this Constitution comes into operation.

**203.** (1) Any State wishing to exercise the right of secession shall have a resolution to that effect passed by its State Council. No such resolution shall be deemed to have been passed unless not less than two-thirds of the total number of members of the State Council concerned have voted in its favour.

- (2) The Head of the State concerned shall notify the President of any such resolution passed by the Council and shall send him a copy of such resolution certified by the Chairman of the Council by which it was passed.

**204.** The President shall thereupon order a plebiscite to be taken for the purpose of ascertaining the will of the people of the State concerned.

**205.** The President shall appoint a Plebiscite Commission consisting an equal number of members representing the Union and the State concerned in order to supervise the plebiscite.

**206.** Subject to the provisions of this Chapter, all matter relating to the exercise of the right of secession shall be regulated by law.

## **CHAPTER XI**

### **AMENDMENT OF THE CONSTITUTION**

**207.** Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner hereinafter provided.

- 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.
- 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 representative from any of the States.
- shall not be deemed to have been passed at the joint sitting of the Chamber 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 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.
- 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.

## CHAPTER XII

### INTERNATIONAL RELATIONS

**211.** The Union of Burma renounces war as an instrument of national policy, and accepts the generally recognized principle of international law as its rule of conduct in its relation with foreign States.

**212.** The Union of Burma affirms its devoting to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

**213.** (1) Every international agreement to which the Union becomes a party shall be laid before the Parliament.

(2) No international agreement requiring or likely to require legislation in order to give effect thereto shall be ratified except with the approval of the parliament.

(3) No international agreement involving a charge upon the revenues of the Union shall be ratified unless the terms of the agreement shall have been approved by the Chamber of Deputies.

*Explanation.* – This section shall not apply to inter-governmental agreements or conventions of a technical or administrative character.

**214.** No international agreement as such shall be part of the municipal law of the Union, save as may be determined by the Parliament.

## CHAPTER XIII

### GENERAL PROVISIONS

**215.** The National Flag shall be rectangular in shape and red in colour with a canton of dark blue. In the canton shall be a five-pointed large white star with five smaller similar stars between points. One of the five points of each star, large or small, shall direct upwards. The dimensions of the Flag shall be nine feet by five feet and the canton shall be four feet by two and a half feet. The size of the large star shall be such that a circle drawn through the five points shall have a diameter of eighteen inches and the smaller stars nine inches. National Flags of other sizes shall conform as nearly as possible to the above proportions.

**216.** The official language of the Union shall be Burmese, provided that the use of the English language may be permitted.

**217.** Two copies of the Constitution shall be made, one in the Burmese language and the other in the English language, both copies to be signed by the President of the Constituent Assembly and enrolled for record in the office of the Registrar of the Supreme Court. Such copies shall be conclusive evidence of the provisions of this Constitution.

**218.** No certificate, licence or other form of authorization for the operation of any public utility service shall be granted by the Union or by a State except to –

- (i) organizations controlled by the Union or by a State or by local authorities, or
- (ii) citizens of the Union, or
- (iii) companies or other associations organized under the laws in force in the Union, not less than sixty per cent of whose capital is owned by the Union or by any State or by any local authority or by citizens of the Union;

nor shall such certificate, licence or authorization be granted by the Union or by a State to any individual, firm or company for a longer period than twenty-five years and except under the condition that it shall be subject to amendment, alternation or repeal by law when the public interest so requires.

**219.** All timber and mineral lands, forests, water, fisheries, minerals, coal, petroleum and other mineral oils, all sources of potential energy and other natural resources shall be exploited and developed by the Union; provided that subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union may grant the right of exploration, development or utilization of the same to the citizens of the Union or to companies or associations at least sixty per cent of the capital of which is owned by such citizens: Provided further that no such right shall be granted by the Union except under the condition that it shall be subject to amendment, alternation or repeal by the Parliament when the public interest so requires.

No certificate, licence, or other form of authorization for the exploitation, development or utilization of any of the aforesaid natural resources of the Union shall be granted in future for a period exceeding twenty-five years.

**220.** Subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union shall not grant any agricultural land for the exploitation, development or utilization to any persons other than the citizens of the Union.

**221.** The Parliament shall, by law, set up a Public Service Commission to assist the Union Government in matters relating to recruitment to the civil

services of the Union, and to advise in disciplinary matters affecting the services. The composition, powers and functions of the Commission and the terms of service of its members shall be defined by an Act of the Parliament.

## **INTERPRETATION**

- 222.** (1) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say, -
- “Burma” has the same meaning as in the Government of Burma Act, 1935;
- “Existing law” means any law, Ordinance, Order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person in any territories included within the Union of Burma being a legislature, authority or person having power to make such law, Ordinance, Order, bye-law, rule or regulation;
- “Saohpa” or “Sawphya” means, in the event of any dispute, the person recognized as such by the President in accordance with the rules of succession applicable;
- “Unit” means –
- (a) any State forming a constituent unit of the Union of Burma;
  - (b) all the territories of the Union of Burma not forming part of any State.
- (2) In Chapter VI, VII, X, XI and XIII and in Third and Fourth Schedules, the term “State” means, save where a contrary intention appears, the Shan State, the Kachin State, the Karenni State or any new State that may be constituted under Part VI of Chapter IX.
- (3) Save where a contrary intention appears, the provisions of the Burma General Clauses Act shall extend to the interpretation and application of this Constitution.

## **CHAPTER XIV**

### **TRANSITORY PROVISIONS**

**223.** All rights, authority, jurisdiction and prerogative heretofore belonging to His Britannic Majesty which appertain or are incidental to the government of the territories in Burma for the time being vested in him by virtue of the



Government of Burma Act, 1935, or otherwise, and all rights, authority, jurisdiction and prerogative exercisable by him by treaty, grant, usage, sufferance or otherwise in, or in relation to, any other territories in Burma, are hereby declared to belong to the Union: Provided that any prerogative which subsisted in His Britannic Majesty and was exercisable by him in or in respect of British Burma immediately before the commencement of this Constitution shall cease to be exercisable as such by any authority in the Union.

**224.** All rights and assets which immediately before the commencement of this Constitution were vested in His Britannic Majesty or any other authority for the purposes of the government of Burma and the Karenni States shall, as from the commencement of this Constitution, be vested in the Union Government. In particular, all forests and all mineral and other wealth underground, the waters including mineral and medicinal waters, the sources of natural power, the rail transport, posts, telecommunications and broadcasting shall be from the commencement of this Constitution the property of the Union.

**225.** (1) Any proceedings relating to contracts or liabilities which, if this Constitution had not come into operation, might have been brought against the Government of Burma, may be brought against the Union Government.

(2) The Union of Burma may sue and be sued by the name of the Union of Burma.

(3) If at the date of the coming into operation of this Constitution any legal proceedings are pending to which the Government of Burma is a party, the Union Government shall be deemed to be substituted in those proceedings for the Government of Burma.

**226.** (1) Subject to this Constitution and to the extent to which they are not inconsistent therewith, the existing laws shall continue to be in force until the same or any of them shall have been repealed or amended by a competent legislature or other competent authority.

(2) The President of the Union may, by Order provide that as from such date as may be specified in the order any existing law shall, until repealed or amended by the Parliament or other competent authority, have effect subject to such adaptations and modifications as appear to him to be necessary or expedient with due regard to the provisions of this Constitution.

**227.** The Union shall honour all legitimate obligations arising out of any treaties or agreements which immediately before the commencement of this Constitution were in force between the Government of Burma, or His Britannic Majesty or His Majesty's Government in the United Kingdom acting on behalf of the Government of Burma, and the Head of Government of any other State, provided that such other State honours any reciprocal obligations towards the Union.

**228.** All Courts existing at the date of the coming into operation of this Constitution shall continue to exercise their jurisdiction until new Courts are established by law in accordance with this Constitution. All cases, civil, criminal and revenue, pending in the said Courts, shall be disposed of as if this Constitution had not come into operation.

**229.** All persons who were in the service of the Government of Burma immediately before the coming into operation of this Constitution shall continue in service until the Union Government provide otherwise.

**230.** For the purpose of removing any unforeseen difficulties, particularly in relation to the transition from the provisions of the Government of Burma Act, 1935, to the provisions of this Constitution, the President of the Union may by Order direct that this Constitution shall during such period as may be specified in the Order have effect subject to such amendments, whether by way of variation, addition or repeal, as he may deem to be necessary or expedient. No such Order shall be made under this section after the first meeting of the Union Parliament duly constituted under Chapter VI; and so such Order shall be made unless it is approved by a resolution passed by this Constituent Assembly exercising the powers of both Chambers of Parliament under the provisions of the next succeeding section.

**231.** (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI, this Constituent Assembly shall itself exercise all the powers, discharge all the duties and enjoy all the privileges of both Chambers of Parliament.

(2) Such person as the Constituent Assembly shall have elected in this behalf shall be the Provisional President of the Union until a President has been duly elected under Chapter V and shall exercise all the powers and discharge all the duties conferred or imposed upon the President by this Constitution.

A period of service as Provisional President shall not count as a term of service for the purposes of sub-section (2) of section 48.

- (3) Such persons as shall have been elected in this behalf by the Constituent Assembly shall be the Prime Minister and other members of the Provisional Union Government, until the President duly elected under Chapter V has appointed other persons in accordance with the provisions of section 56.
- 232.** (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI
- (a) all the members of the Constituent Assembly representing the Federated Shan States shall constitute the Provisional Shan State Council;
  - (b) all the members of the Constituent Assembly representing the Myitkyina and Bhamo Districts shall constitute the Provisional Kachin State Council;
  - (c) all the members of the Constituent Assembly representing the Karens shall constitute the Provisional Karen Affairs Council;
  - (d) all the members of the Constituent Assembly representing the Karenni State and such other persons from the Karenni State and such other persons from the Karenni State not exceeding two as may be nominated by the Provisional President shall constitute the Provisional Karenni State Council; and
  - (e) all the members of the Constituent Assembly representing the Chin Hills District and the Arakan Hill Tracts shall constitute the Provisional Chin Affairs Council.
- (2) Each of the aforesaid Provisional Councils shall exercise all the powers and discharge all the duties of the corresponding Council constituted under Chapter IX.

**233.** The first general elections under this Constitution shall be held within eighteen months from the date of the coming into operation of this Constitution.

**234.** This Constitution shall come into operation on such date as the Provisional President may announce by proclamation not being later than the eighth day of Kason waxing, 1310 B.E. (fifteenth day of April, 1948 A.D.)

## **FIRST SCHEDULE**

### **FORM OF OATH OR AFFIRMATION**

**(See Section 72.)**

I ..... having been chosen a member of the Chamber of Deputies/Nationalities do solemnly swear (affirm) that I will maintain the Constitution of the Union and uphold its laws, and that I will faithfully discharge the duty upon which I am about to enter.

## **SECOND SCHEDULE**

### **COMPOSITION OF THE CHAMBER OF NATIONALITIES**

**(See section 87)**

Of the 125 seats in the Chamber of Nationalities –

- (a) twenty-five seats shall be filled by representatives from the Shan State;
- (b) twelve seats shall be filled by representatives from the Kachin State;
- (c) eight seats shall be filled by representatives from the Special Division of the Chins;
- (d) three seats shall be filled by representatives from the Karenni State;
- (e) twenty-four seats shall be filled by representatives of Karens;
- (f) fifty-three seats shall be filled by representatives from the remaining territories of the Union of Burma.

## **THIRD SCHEDULE**

### **LIST I. UNION LEGISLATIVE LIST**

**(See Section 92 [1])**

**1. Defence:** that is to say, the defence of the Union and of every part thereof, including generally all preparations for defence as well as all such acts in times of war as may be conducive to its successful prosecution and to effective demobilisation after its termination, and in particular –

- (1) The raising, training, maintenance and control of Naval, Military and Air Force and employment thereof for the defence of the Union and the execution of the laws of the Union and the States.
- (2) Defence Industries.
- (3) Naval, Military and Air Forces Works.
- (4) Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas.
- (5) Arms, fire-arms, ammunition and explosives.
- (6) Atomic energy, and mineral resources essential to its production.
- (7) Conduct of War.

## **2. External Affairs:**

- (1) Diplomatic, consular and trade representation.
- (2) United Nations Organization.
- (3) Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
- (4) The declaration of war and conclusion of peace.
- (5) The entering into and implementing of treaties and agreement with other countries.
- (6) Regulation of trade and commerce with foreign countries.
- (7) Foreign Loans.
- (8) Citizens; aliens; acquisition and termination of citizenship.
- (9) Extradition.
- (10) Passports and visas.
- (11) Foreign jurisdiction.
- (12) Admiralty jurisdiction.
- (13) Piracies, offences committed on the high seas and offences committed in the air against the law of nations.
- (14) Admission into, and emigration and expulsion from, the Union.
- (15) Fishing and fisheries beyond territorial waters.
- (16) Import and export across customs frontiers as defined by the Union Government.

## **3. Communications:**

- (1) Port and inter-unit quarantine; seamen's and marine hospital and hospital connected with port quarantine.

- (2) Airways.
- (3) Highways and waterways declared by the Union to be Union highways and waterways.
- (4) Shipping and navigation as regards mechanically propelled vessels on inland waterways declared by the Union to be Union waterways; the rule of the road on such waterways; carriage of passengers and goods on such waterways.
- (5) Railways.
- (6) Maritime shipping and navigation, including shipping land navigation on tidal waters.
- (7) Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.
- (8) Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.
- (9) Carriage of passengers and goods by sea or by air.
- (10) Lighthouse, including lightships, beacons and other provisions for the safety of shipping and aircraft.
- (11) Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.

#### **4. Finance:**

- (1) The borrowing of money on the credit of the Union.
- (2) Duties of customs including export duties.
- (3) Duties of excise excluding those enumerated in the State Legislative List but including taxes on the production, consumption and sale of electricity.
- (4) Taxes on the sale of goods.
- (5) Taxes on companies.
- (6) Taxes on income.
- (7) Taxes on the capital value of the assets of individuals and companies.
- (8) Taxes on the capital of companies.
- (9) Estate duty and duties in respect of succession to property.
- (10) Excess Profits Tax.
- (11) Savings Bank.
- (12) Stamp duty in respect of bills of exchange, cheques, promissory notes and other documents.

- (13) Terminal taxes on goods or passengers carried by railway, sea or air.
- (14) Taxes on railway fares and freights.
- (15) Fees in respect of any of the matters in this list but not including fees taken in any Court subordinate to the High Court.

**5. General:**

- (1) The Reserve Bank; banking including incorporation of banks, and the issue of paper money.
- (2) Currency, coinage and legal tender.
- (3) Enquiries, surveys and statistics for the purpose of the Union.
- (4) Acquisition of property for the purposes of the Union.
- (5) Any Museum, Library or other institutions declared by Union law to be of national importance.
- (6) Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
- (7) Census.
- (8) Union Services.
- (9) Elections to the Union Parliament subject to the provisions of the Constitution.
- (10) Emoluments and allowances of the President, the salaries and allowances of the Prime Minister and other members of the Union Government, the salaries of the Speaker and the Deputy Speaker of the Chamber of Nationalities; the salaries of the Speaker and the Deputy Speaker of the Chamber of Deputies; the salaries, allowances and privileges of members of the Union Parliament.
- (11) Public debt of the Union.
- (12) Criminal Law and Procedure.
- (13) Civil Law and Procedure including in particular the laws relating to – infants and minors; adoption; transfer of property; trusts and trustees; contracts; arbitration; insolvency; actionable wrongs; lunacy.
- (14) Law of Evidence.
- (15) Legal, medical and other professions.
- (16) Newspapers, books and printing presses.
- (17) Poisons and dangerous drugs.
- (18) Mechanically propelled vehicles.

- (19) Factories.
- (20) Welfare of labour; conditions of labour; employers' liability and workmen's compensation; health insurance; old age pensions.
- (21) Unemployment insurance.
- (22) Trade Unions; industrial and labour disputes.
- (23) Electricity.
- (24) Insurance.
- (25) Company Law.
- (26) Cheques, bills of exchange, promissory notes and other like instruments.
- (27) Copyright; inventions; patents; trademarks and merchandise marks; trade designs.
- (28) Planning.
- (29) Regulation of land tenures, including the relation of landlord and tenant and the collection of rents; transfer, alienation and devolution of land.
- (30) Ancient and historical monuments; archeological sites and remains.
- (31) Standard weight and measures.
- (32) Opium, except as to excise duties thereon.
- (33) Petroleum and other liquids and substances declared by Union law to be dangerously inflammable.
- (34) Development of industries, where development under Union control is declared by Union law to be expedient in the public interests.
- (35) Co-operative societies.
- (36) Regulation of forests, mines and oil-fields (including labour and safety in mines and oil-fields) and mineral development.
- (37) Migration within the Union.
- (38) Jurisdiction and powers of all courts with respect to any of the matters enumerated in this list.
- (39) Offences against laws with respect to any of the matters in this list.
- (40) Any other matter not enumerated in List II.



**LIST II**  
**STATE LEGISLATIVE LIST**  
[See Section 92 (2)]

**1. Constitutional Affairs:**

- (1) The constitution of the State, subject to the provisions of this Constitution.
- (2) State Public Services and State Public Service Commission.
- (3) State pensions, that is to say, pensions payable by the State or out of the State Revenues.
- (4) The salaries of the State Ministers, and of the Chairman of the State Council; salaries, allowances and privileges of the members of the State Council.

**2. Economic Affairs:**

- (1) Agriculture; cattle pounds and the prevention of cattle trespass.
- (2) Fisheries within the State.
- (3) Land; Land revenue; land improvement and agricultural loans; colonization; encumbered and attached estates; treasure trove.
- (4) Works, lands and building vested in or in the possession of the State.
- (5) Markets and fairs.
- (6) Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage, but excluding inter-unit rivers and water-courses.
- (7) Capitation and *Thathameda* taxes.
- (8) Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union: -
  - (i) Opium.
  - (ii) Indian hemp and other narcotics; non-narcotics drugs.
  - (iii) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.
  - (iv) Alcoholic liquors for human consumption.
- (9) Taxes on trades and employments.
- (10) Taxes on animals and boats.
- (11) Taxes on entertainments, amusements, betting and gambling.
- (12) Tolls.

**3. Security:**

- (1) Public order (but not including the use of naval, military or air forces of the Union).
- (2) Police including Village Police.
- (3) The administration of justice; constitution and organization of all Courts subordinate to the High Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subject to such detention.
- (4) Jurisdiction and powers of all Courts subordinate to the High Court, with respect to any of the matters enumerated in this list.
- (5) Prisons; persons detained therein; arrangements with other units for the use of prisons and other institutions.
- (6) Offences against laws with respect to any of the matters enumerated in this list.

**4. Communications:**

- (1) Roads, bridges, ferries and other means of communication other than such as extend beyond the borders of the State.
- (2) Municipal tramways; rope-ways.
- (3) Inland waterways and traffic thereon.
- (4) Local works and undertakings within the State other than railways, subject to the power of the Union Parliament to declare any work a national work and to provide for its construction by arrangement with the State Council or otherwise.

**5. Education:**

- (1) Education excluding, for a period of ten years from the commencement of this Constitution and thereafter until the Union Parliament otherwise provides, University, higher technical and professional education.
- (2) All educational institutions controlled or financed by the State.
- (3) Libraries, museums and other similar institutions controlled or financed by the State.
- (4) Theaters, dramatic performances and cinemas, but not including the sanction of cinematographic films for exhibition.

**6. Public Health:**

- (1) Public Health and sanitation.
- (2) The establishment, maintenance and management of hospitals, asylums and dispensaries.

- (3) Registration of births, deaths and marriages.
- (4) Burials and burial grounds.

**7. Local Government:**

- (1) Municipalities and other local authorities for the purpose of local self-government or village administration.
- (2) Charities and charitable institutions.

**8. General:**

- (1) Relief of the poor.
- (2) Enquiries and statistics for the purpose of any of the matters enumerated in this list.
- (3) Generally all matters which in the opinion of the President are of a merely local or private nature in the State.

**FOURTH SCHEDULE  
STATE REVENUE LIST  
[See Section 96]**

**1. Land Revenue:**

- (i) Land revenue proper.
- (ii) Rents and fees of fisheries.
- (iii) Royalty on petroleum.
- (iv) Royalty on minerals and taxes on mineral rights.
- (v) Royalty on rubber.
- (vi) Capitation and *Thathameda* taxes.

**2. Duties of Excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union:**

- (i) Alcoholic liquors for human consumption
- (ii) Opium.
- (iii) Indian hemp and other narcotics; non-narcotic drugs.
- (iv) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.

**3. Fees taken in Courts subordinate to the High Court.**

**4. Forests.**

**5. Registration.**

**6. Taxes on trades and employments.**

**7. Taxes on animals and boats.**

**8. Taxes on entertainments, amusements, betting and gambling.**

9. Taxes under the State Motor Vehicles Taxation Acts.
10. Irrigation dues.
11. Interests on advances made from the State revenues and on State investment.
12. Contributions from component parts to the State.
13. Contributions from the Union.
14. All fees, fines, sale proceeds and rents of property belonging to the State, recoveries of over-payments and payments for services rendered in connection with any or all matters enumerated above and also in connection with the following: -
  - (a) Administration of justice.
  - (b) Jails and convict settlements.
  - (c) Police.
  - (d) Education.
  - (e) Medical.
  - (f) Public health.
  - (g) Agriculture.
  - (h) Veterinary.
  - (i) Co-operative societies.
  - (j) Registration of births, deaths and marriages.
  - (k) Civil works.
  - (l) Receipts in aid of superannuation of State employees.
  - (m) Stationery and printing.
  - (n) Unclaimed deposits.
  - (o) Treasure trove.
  - (p) Tolls.
  - (q) Extraordinary receipts.

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**THE CONSTITUTION (AMENDMENT) ACT, 1959\***

[Act No. IV of 1959.]

(The 26<sup>th</sup> February 1959.)

*[An Act to amend the Constitution of the Union of Myanmar.]*

It is hereby enacted as follows: ”

1. (1) This Act may be called the Constitution (Amendment) Act, 1959.
  - (2) It shall remain in force until the date on which the Prime Minister shall have been appointed by the President on the nomination of the next Chamber of Deputies.
  - (3) When this Act ceases to have effect, the provisions of section 5 of the Myanmar General Clauses Act shall apply.
2. So long as this Act remains in force, the provisions of section 116 of the Constitution shall be deemed to have been repealed.

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Signed by me in pursuance of the Constitution.

U WIN MAUNG,

*President of the Union of Myanmar.*

YANGON, *the twenty-sixth day of February 1959.*

By Order,

PA SEIN,

*President's Secretary.*

**THE CONSTITUTION (SECOND AMENDMENT) ACT, 1959 <sup>1</sup>**

[Act No. X of 1959.] (The 17<sup>th</sup> March 1959.)

*(An Act to amend the Constitution of the Union of Myanmar.)*

It is hereby enacted as follows: ”

1. (1) This Act may be called the Constitution (Second Amendment) Act, 1959.
- (2) It shall come into force on the next day after the day on which the next elected Chamber of Deputies is dissolved.
2. Sub-section (2) of section 154, and sub-section (1) of section 183 of the Constitution are hereby repealed.

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Signed by me in pursuance of the Constitution.

*U Win Maung,*

*President of the Union of Myanmar.*

YANGON, *the seventeenth day of March 1959.*

By Order,

*Pa Shin,*

*President's Secretary.*

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<sup>1</sup> မြန်မာနိုင်ငံပြန်တမ်း၊ အပိုင်း-၁၊ ၁၉၅၉ ခုနှစ်၊ မတ်လ (၂၈) ရက်၊ စာမျက်နှာ ၅၆၀။

**THE CONSTITUTION AMENDMENT ACT, 1961**

[Act No. III of 1561.]

(The 24<sup>th</sup> March 1961)

It is hereby enacted as follows: -

1. This Act may be called the Constitution Amendment Act. 1961.
2. For section 2 of the Constitution, the following shall be substituted as section 2, namely : -
  - " 2. The Union of Myanmar shall comprise the whole of Myanmar, including-
    - (i) subject to the provisions of Article IX and X of the Boundary Treaty concluded between the Union of Myanmar and the People's Republic of China on the 1<sup>st</sup> day of October 1960 and duly ratified by the respective Governments of the two Parties to the Treaty on the 4<sup>th</sup> January 1961, all the territories administered by the Governor of Myanmar on behalf of His Britannic Majesty;
    - (ii) the Kayah State; and
    - (iii) such other territories as may be acquired."
3. For section 5 of the Constitution, the following shall be substituted as section 5, namely : -
  - "5. Subject to the provisions of clause (i) of section 2 the territories that were heretofore known as the Federated Shan States and the Wa States shall form a constituent unit of the Union of Myanmar and be hereafter known as " the Shan State."
4. For section 6 of the Constitution, the following shall be substituted as section 6, namely: -
  - "6. Subject to the provisions of clause (i) of section 2 the territories that were heretofore known as the Myikyina and Bhamo Districts shall form a constituent unit of the Union of Myanmar and be hereafter known as "the Kachin State."

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**THE CONSTITUTION (SECOND) AMENDMENT ACT, 1961**

[Act No. VII of 1961.]

(The 25<sup>th</sup> March 1961)

It is hereby enacted as follows:-

1. (1) This Act may be called the Constitution (Second) Amendment Act, 1961.
- (2) It shall come into force on such date as the President may, by notification, appoint.
2. In Chapter VI of the Constitution, the following shall be inserted as Part VI, namely:-

**"Part VI-ELECTIONS"**

113A. The superintendence, direction and control of the preparation of the electoral rolls for all elections and of the conduct of elections of the Parliament and without prejudice to the provisions of the Constitution or the rules of procedure for both Chambers of Parliament or the provisions contained in the Election of the President of Union Act, 1949, the conduct of elections under any other law, shall be vested in the Election Commission constituted under section 113B.

- 113 B. (1) There shall be constituted an Election Commission, which shall consist of the Chief Election Commissioner and other Election Commissioners not exceeding four in number, appointed by the President by an order under his hand and seal, with the approval of both Chambers of Parliament in joint sitting.



- (2) If at any time during which the Parliament is dissolved it is necessary so to do, it shall be lawful for the President to appoint the Chief Election Commissioner and other Election Commissioners, subject, however, to the approval and confirmation being obtained for such appointment of both Chambers in joint sitting of the next Parliament at its first session.
  - (3) No discussion shall take place in the Parliament with respect to the appointment of the Chief Election Commissioner and Election Commissioners under sub-sections (1) and (2).
  - (4) The Chief Election Commissioner shall act as the Chairman of the Election Commission.
  - (5) The other Election Commissioners shall take precedence according to the seniority of their appointment in the Election Commission.
- 113C. (1) Every person appointed under section 113 B as Chief Election Commissioner or Election Commissioner shall make and subscribe the following declaration:-
- "I.....do solemnly and sincerely promise and declare that I will duly and faithfully to the best of my knowledge and ability execute the office of the Chief Election Commissioner (or Election Commissioner as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws."

- (2) The declaration shall be made and subscribed by every member of the Election Commission in the presence of the Chief Justice of the Union or the senior available Judge of die Supreme Court.
- (3) The declaration shall be made and subscribed by every member of the Election Commission before entering upon his office as such member.
- (4) Any member of Election Commission who declines or neglects to make and subscribe such declaration as aforesaid, shall be deemed to have declined to accept the appointment.

113D. All members of the Election Commission shall be independent in the exercise of their functions and subject only to this Constitution and the laws.

113E. A person shall not be qualified for appointment as a member of the Election Commission unless he is a citizen of the Union who was or whose parents were born in any of the territories included within the Union, or unless he has been for at least five years a citizen of the Union.

- 113F. (1) A member of the Election Commission may by resignation under his hand addressed to the President resign his office.
- (2) A member of the Election Commission shall not be removed from office except for proved misbehaviour or incapacity.
  - (3) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

- (4) A proposal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolution signed by not less than one-fourth of the total membership of that Chamber.
- (5) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber, supported by a majority of the members present.
- (6) The charge shall be investigated by a Special Tribunal consisting of the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.
- (7) The member of the Election Commission against whom the charge is preferred shall have the right to appear and to be represented at the investigation of the charge.
- (9) The Special Tribunal shall, after investigation, submit its report to the Chamber by which the charge was preferred. The finding of the Special Tribunal declaring that the charge has not been proved, if unanimous, shall be final. But in all other cases, the report of the Special Tribunal shall be considered by both Chambers of Parliament in joint sitting.

If, after consideration, a resolution be passed supported by a majority of the members present and voting at the joint sitting declaring that the charge preferred against the member has been proved and that the misbehaviour was, or incapacity is, such as to render him unfit to continue in office, the President shall forthwith by

and order under his hand and seal remove from office the member to whom it relates.

113G. Neither the salary of member of the Election Commission nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

113H. The Parliament may make provision by an Act for conferring upon the Election Commission such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Election Commission more effectively to exercise the power conferred upon it by or under this Constitution.

113I. Subject to the foregoing provisions of this Constitution relating to the Election Commission, the Chief Election Commissioner and other Election Commissioners, the following matters shall be regulated in accordance with law:-

- (a) the remuneration, age of retirement and pension of the Chief Election Commissioner and Election Commissioners; and
- (b) the distribution of the Election Commission's business, its powers and all matters of procedure.

113J. Until provision is made by any specific Act or rules, the preparation of the electoral rolls for all elections, the conduct of elections to the Parliament and; without prejudice to the provisions of this Constitution or the rules of procedure for both Chambers of Parliament or the provisions contained in the Election of the President of the Union Act, 1949, the conduct of elections under any other law shall

be undertaken under the superintendence, direction and control of the Election Commission, subject to the existing laws."

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ဖွဲ့စည်းပုံအခြေခံဥပဒေအရ၊ ကျွန်ုပ်လက်မှတ်ရေးထိုးသည်။

ဦးဝင်းမောင်၊

နိုင်ငံတော်သမ္မတ

ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်

ရန်ကုန်မြို့၊ ၁၃၂၂ ခုနှစ်၊ နှောင်းတန်းခူးလဆန်း ၉ ရက်။

(၁၉၆၁ ခုနှစ်၊ မတ်လ ၂၅ ရက်။)

အမိန့်အရ၊

သာထက်၊

နိုင်ငံတော်သမ္မတ၏ အတွင်းဝန်။

**THE CONSTITUTION (THIRD AMENDMENT) ACT, 1961<sup>2</sup>**

[ACT NO. XVII 1961.]

(The 26<sup>th</sup> August 1961)

It is hereby enacted as follows:.

1. (1) This Act may be called the Constitution (Third Amendment) Act, 1961,
- (2) It shall come into force on such date as the President may, by notification, appoint.
2. In section 21 of the Constitution -
  - (a) for sub-section (1) the following shall be substituted as sub-section (1),  
namely:-  
"(1) Buddhism being the religion professed by the great majority of the citizens of the Union shall be the State religion."; and
  - (b) after sub-section (4) the following shall be inserted as sub-section (5), namely:-  
"(5) The Union Government shall render financial aid amounting to a minimum equal to. 50 percent of its annual current expenditure for matters connected with religions.

Explanation - 'Religions' means Buddhism, Islam, Christianity, Hinduism and Animism mentioned in sub-sections (1) and (2) of this section."

3. After section 21 of the Constitution, the following shall be inserted as sections 21 A, 21B, 21C and 21 D, namely: -

"21A. Buddhism being the State religion of the Union, the Union Government shall-

- (a) promote and maintain Buddhism for its welfare and advancement in its three aspects, namely, *pariyattisâsânâ* (study of the Teachings of the Buddha) *patipatti sâsânâ* (practice of the Teachings), and *pativedha sâsânâ* (enlightenment).

<sup>2</sup> မြန်မာနိုင်ငံပြန်တမ်း၊ အပိုင်း - ၁၊ ၁၉၆၁ ခုနှစ်၊ စက်တင်ဘာလ (၂) ရက်၊ စာမျက်နှာ - ၁၇၂၄။

- (b) honour the **Tiratana**, namely, the Buddha, Dhamma and Sangha:
- (c) protect the said religion in its three aspects and the **Tiratana** from all dangers including insult and false representation, made by words, either spoken or written, or by other means.

Explanation-'Sangharaiana' means the religious Order of the Bhikkhus (monks) not individually but collectively as a whole irrespective of sects.

21B. The Union Government shall -

- (a) properly maintain and preserve the Tipitaka Pali Texts, the Commentaries and Sub-commentaries thereof, as re-examined and recited at the Sixth Great Buddhist Council:
- (b) grant remission for printing the said Pali Texts, Commentaries and Sub-commentaries within the Union only to those who comply with such conditions as may be prescribed, in order that there may be no errors in printing the same.

21C. The Union Government shall properly maintain the epigraphs of the Tipitaka Pali Texts recited at the Fifth Great Buddhist Council, situated within the precincts of Mahâloka Mârâjina Pagoda near the foot of the Mandalay Hill, and the epigraphs of the Commentaries and Sub-commentaries of Tipitaka situated within the precincts of Candâmuni Pagoda nearby.

21D. The Union Government shall convene a meeting of the following Sayadaws at least once a year and submit, to the said meeting a report on the measures taken for the State religion and shall hear the observations, advice and instructions made by the Sayadaws in connection with the measures taken.

- (a) Abhidhammaharâthaguru Sayadaws.
- (b) Aggamahapandita Sayadaws.
- (c) Union Ovadacariya Sayadaws and
- (d) The Union Vinayadhara Sayadaws."

4. After section 43 of the Constitution, the following shall be inserted as sections 43A and 43B, namely:-

"43A. The State shall give assistance and aid in the restoration of those ancient pagoda and temples which were built by the kings of old and famous in the Buddhist history as enshrining any relics of the Buddha and which may have fallen into ruin on account of wars *instructions*, earthquakes, or other calamities.

43B. The state shall have hospitals provided for the Sangha throughout the Union. In order that there may be no contravention of the Rules of Vinaya, such hospitals shall not be housed under the same roof and within the same walls with the hospitals provided for the laity but shall be such as are permissible to the monks. Such attention and food as are not inconsistent with the Rules of Vinaya shall be given to the monks in the said hospitals."

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ဖွဲ့စည်းပုံအခြေခံဥပဒေအရ၊ ကျွန်ုပ်လက်မှတ်ရေးထိုးသည်။

ရန်ကုန်မြို့၊ ၁၃၂၃ ခုနှစ်၊ ဝါခေါင်လပြည့်နေ့။  
(၁၉၆၁ ခုနှစ်၊ မတ်လ ၂၈ ရက်။)

ဦးဝင်းမောင်၊  
နိုင်ငံတော်သမ္မတ  
ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်

အမိန့်အရ၊  
သာထက်၊  
နိုင်ငံတော်သမ္မတ၏ အတွင်းဝန်။