

GOVERNMENT OF NEPAL ACT 2004 (1948)

PREAMBLE: Whereas by virtue of the supreme authority vested through the instruments of their sacred *Panja-patras* by Shree *Panch Maharajadhirajas* of Nepal, dating from the *Sambat* year 1903 onwards, delegating all powers of the State upon the contemporaneous *Shree Teen Maharajas*.

And whereas I, *Maharaja Padma Shum Shere Jung Bahadur Rana*, and now carrying on the administration of the country by virtue of the authority vested in me by the aforesaid *Panja- patra*,

And whereas it is our fervent desire, through all social, economic and political developments to bring Nepal, this sacred country of *Lord Pashupatinath*, in line with the advanced nations of the world and give our beloved motherland her rightful place in the comity of nations,

And whereas through the resurrection of our ancient ideals of the *Panchayat* and other similar institutions, it is our declared policy to provide for the increasingly closer association of our dear people in every branch of administration and thus bring about enhanced prosperity and happiness to our people,

And whereas progress in giving effect of this policy can only be achieved by successive stages and must be guided by the cooperation received from those to whom new opportunities have been offered and by the extent to which further confidence can be reposed upon their sense of responsibility, .

And whereas we consider it expedient that immediate steps in this direction should now be taken,

I, *Maharaja Padma Shum Shree Jung Bahadur Rana*, do hereby ordain and promulgate that Constitutional Act in the thirty-sixth year of the reign of His Majesty *Shree Panch Maharajadhiraja Tribhubana Bir Bikram Shah*.



PART- I

PRELIMINARY

1. This Declaration may be cited as the "Government of Nepal Act , 2004 (1948) ".
2. This Act shall come into force on 1st *Baisakh*, 2005, *Sambat*. Provided that if it appears to His Highness that through local circumstances or other causes, it could not be practicable or convenient that all the provisions of this Act should come into force simultaneously on that date, he may, notwithstanding anything in this Section, fix an earlier or later date for the coming into force, either generally or for particular purposes or areas, of any particular provisions of this Act. All provisions of this Act shall, however, come into force throughout the Kingdom before the end of the year 2005, *Sambat*.
3. The rule of succession relating of His Majesty the *Maharajadhiraja Shree Panch* and *Shree Teen Maharaja*, shall continue as hereto force in accordance with law, custom and usage in their behalf and shall for all time be inalienable and unalterable.

PART- II

FUNDAMENTAL RIGHTS

4. Subject to the principles of public order and good practices this Constitution guarantees to the citizens of Nepal freedom of personal liberty, freedom of speech, freedom of press, freedom of assembly and organization, freedom of religion, complete equality before the law, affordable and speedy justice, universal free compulsory elementary education, universal and equal suffrage for all adults, security of private property as defined by the prevailing laws and laws and Rules to be made hereunder.
5. Subject to their physical, mental and economic capacity it shall be the duty of every citizen to promote public welfare, to contribute to public funds, to be in readiness to labour physically and intellectually for the safety and well-being of the Realm and bear true allegiance to His

Majesty the *Maharajadhiraja Shree Panch* and *Shree Teen Maharaja* and be faithful to the State and its Constitution.

PART- III

THE EXECUTIVE COUNCIL

6. Subject to the provisions of this Act, as the executive authority of Nepal shall be exercised by him *Shree Teen Maharaja* either directly or through officers subordinate to him.
7. (a) There shall be a Council of Ministers to aid and advise *Shree Teen Maharaja* in the exercise of the executive authority of the State chosen from among the members of the Legislature.
(b) The Council of Ministers shall consist of such number of ministers, not being less than five, of which two at least shall be chosen from among the elected members of the Legislature as *Shree Teen Maharaja* may determine from time to time.
(c) The Presidents and Vice-Presidents of *Panchayats*, who may be *ex-officio* members of the Legislature, shall also be regarded as elected members.
8. (a) *Shree Teen Maharaja* or in his absence the *Mukhtihar* (Commander-in-Chief) shall preside at meeting of the Council of Ministers. The Minister shall work under the Rule made by *Shree Teen Maharaja* and shall be responsible to him.
(b) *Shree Teen Maharaja* shall also allocate portfolios among the Ministers and determine their order of precedence.
9. (a) The Minister appointed by *Shree Teen Maharaja* shall be sworn as members of the Council and shall hold office for a term of four years.
(b) Any Minister shall vacate his office before the expiry of his term only if he-
 - (1) Submits his resignation under his hand addressed to *Shree Teen Maharaja* ;

- (2) Does not command the confidence of *Shree Teen Maharaja*; or
 - (3) Himself admits or is condemned by secret ballot of the Council of Ministers of having committed a grave offense.
 - (c) Provided that, the members vacated from office under Sub-Section (1) and (2) above shall continue to be a member of the Legislature for the remaining term of the office.
- 10.** The ministers shall be entitled to receive such salaries and allowances as may from time to time be determined by *Shree Teen Maharaja*.
- 11.** (a) The Council of Ministers shall transact all executive business of the State. It shall, however, be its special responsibility to give particular attention to the matters not falling within the purview of the Legislature, to lay down the general policy of the State, to scrutinize the budget of the various departments, to give final consideration to the Government bills to be placed before the Legislature, and to bring about coordination and cooperation between the various departments of administration.
- (b) Within the framework of the policy laid down by the Council of Ministers under this Act, the ministers shall, in their own discretion, administer the department or departments. They shall be responsible to the Council for all the acts of their departments and shall also submit to His Highness such information and explanation as he may require.
- 12.** (a) There shall be a chief legal advisor appointed by His Highness, to give advice to the Government upon such legal matters as may be referred to him by the Government.
- (b) He shall have the *right of audience* in all courts of the State.
- (c) He shall hold office during the pleasure of *Shree Teen* and shall receive such salary and allowances as *Shree Teen* may determine.
- 13.** There shall be set up from among the members of the Legislature, Administrative Committees to aid and advise the various departments of

the Executive and thereby associate the opinion of the Legislature with the policy of the Government.

14. (a) These Committees shall deal with such departments as may be assigned to them by *Shree Teen*, whether these departments fall within the purview of the Legislature or not.
- (b) A Committee, appointed by *Shree Teen* from among the members of the *Rastra Sabha*, shall choose the members of the various Administrative Committees.
- (c) There shall be at least four members in each Administrative Committee, the Chairman of which shall be the head of the department for which the Committee has been constituted.
- (d) The Administrative Committee shall deal with all matters of administrative policies and measures pertaining to the subjects allotted to them. All matters connected with the normal routine administration of the departments and with appointments, promotions or transfers of officers in the departments shall, however, be the sole responsibility of the Minister concerned.
15. All Rules and Regulations pertaining to the working of these Committees shall be framed by the Government.

PART- IV

THE LEGISLATURE

A. THE PANCHAYAT ASSEMBLY

16. There shall be a *Gram (Village) panchayat* for every village or group of villages, which shall form a unit as specified by rules framed by the Government in this behalf, consisting of five to fifteen members elected by the vote of all adults with necessary qualification, who will elect their own *Pradhan Panch*.
17. There shall be a *Nagar (Town) panchayat* for every town or city or group thereof consisting of ten to fifty members elected by the vote of all adults with necessary qualifications, who will elect their own

Pradhan Panch in accordance with the *Rules* prescribed by the Government in this behalf.

18. The *Pradhan Panch* of each *Gram panchayat* and *Nagar panchayat* shall elect from among themselves and if necessary from among their members fifteen to twenty members who, together with the special representatives as mentioned in the *Rules* framed by the Government in this behalf, shall form the "*Zilla Panchayat*" in places to be notified by the Government. It shall elect its own President.
19. It shall be the duty of the village, town and District *panchayats*, within the limits of the funds at their disposal and subject to the Control of the Government and in the case of a village panchayat, to that of the *Zilla panchayat* as well, to attend to all matters relating to the education, welfare and prosperity of the people and the territory under their charge, particularly justice, water supply, sanitation, construction and maintenance of roads, drains, bunds, bridges and public buildings, grazing lands, basic education, unemployment relief through cottage industries and other measures, which are likely to promote the health, safety, education, comfort and the social and economic wellbeing of the people.
20. The *Zilla panchayats* will receive from the Centre the allotted share of the funds of *Zilla* concerned. They shall retain half of the fund for their own use and distribute the other half these among the village *panchayats* within their respective jurisdiction in proportion to the amount contributed by the areas concerned.
21. The *Zilla panchayat* shall coordinate the activities of the village and town *panchayats* within its jurisdiction and shall aid and advise the *Bada Hakim* (Commissioner) of the *Zilla* on matters of policy, relating to the welfare of the *Zilla*. It shall also perform such other duties as may from time to time be assigned to it by the Government.

B. CENTRAL ASSEMBLY

22. (a) There shall be a Legislative Assembly of Nepal which shall consist of *Shree Teen Maharaja* and two Chambers to be known respectively as the *Rastra Sabha* and the *Bharadari Sabha*.
- (b) The *Rastra Sabha* shall consist of not less than sixty and not more than seventy members, both elected and nominated, as mentioned in Schedule "A" of this Act provided that the ratio between the nominated and elected members be in the proportion of 2 to 3 as nearly approximating to that proportion as possible.
- (c) The *Bharadari Sabha* shall consist of not less than twenty and not more than thirty members, nominated by *Shree Teen* considering the contribution to the nation as far as possible from the persons who represent different institutions, occupations, professions and their special qualification.
- (d) The Legislature of Nepal shall be a permanent body not subject to dissolution, but as near as possible one-fourth of the members thereof shall retire every year and new members be elected or nominated as the case may be in accordance with the provisions in that behalf to be fixed by the President at the beginning of the first session.
23. (a) The Chambers of the Legislature shall be summoned to meet at least twice every year.
- (b) Subject to the provisions of this section, *Shree Teen Maharaja* may in his discretion--
- (i) Summon the Chambers or either Chamber to meet at such time and place as he thinks fit, and
- (ii) Prorogue the Chambers.
24. *Shree Teen Maharaja* may in his discretion address or send message to either or both Chambers. The Legislature shall with all convenient dispatch consider any matter which it is required to take into consideration in such an address or message.

25. Every minister or the chairman of the Administrative Committee or in his absence the Departmental Secretary and the Government Legal Advisor shall have the right to speak in and otherwise to take part in the proceedings of either Chamber and any Committee of the Legislature, but shall be entitled to vote only in the Chamber of which he is a member.
26. (a) There shall be a President and a Vice-President of the *Rastra Sabha*, who shall respectively be nominated by *Shree Teen Maharaja* elected by the Chamber from among its members. In case of absence or vacancy of the President or the Vice-President nomination or election will take place as the case may be.
- (b) (i) The President and the Vice-President may resign from their office by writing under their hand addressed to *Shree Teen Maharaja* or may be removed from office by order of *Shree Teen Maharaja* for reasons to be specified under Rules to be made for the purpose and any vacancy occurring shall be filled by nomination or election as the case may be.
- (ii) They shall vacate their office if they cease to be members of the House. They may be removed from office by resolution sponsored by two-thirds of the total number of members of the *Sabha* and passed by a similar majority of the members voting.
- (c) The Commander-in-Chief shall be the President of the *Bharadari Sabha* and the Vice-President thereof shall be nominated by *Shree Teen Maharaja*.
27. (a) Save as in this Act expressly provided, all questions in a Chamber or a joint sitting of the Chambers, shall be determined by a majority of votes of the members present and voting, other than the President or the person acting as such, who shall not vote in the first instance but shall have a casting vote in the case of

equality of votes.

- (b) Either Chamber shall have the power to act notwithstanding any vacancy in the membership thereof and any proceedings in the Chamber or in the joint sitting of the Chambers 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.
 - (c) If at any time during a meeting of a Chamber of the Legislature or at a joint sitting of the both Chambers, less than one-fourth of the total members of the Chambers or Chamber is present, it shall be the duty of the President or person acting as such, either to adjourn the meeting or suspend it until at least the required number of members is present.
- 28.** Every member of the Legislature shall, before taking his seat, take an oath of office as prescribed by the government.
- 29.**
- (a) No person shall be a candidate for both the Chambers.
 - (b) If a member of the Legislature becomes subject to any of the disqualifications mentioned in Section 30, or by writing under his hand addressed to *Shree Teen Maharaj* resigns his seat, thereupon his seat shall become vacant.
 - (c) If for two consecutive sessions of either Chamber or continuously for forty-five days, a member of the Chamber, without the permission of the President thereof, absents himself from all meetings of the Chamber, his seat shall become vacant.
- 30.** A person shall be disqualified for being chosen as, or for being a member of either Chamber-
- (a) (i) If one holds any office under the Government other than an office, declared by the Government not to disqualify its holder,
 - (ii) If he is of unsound mind,
 - (iii) If he is an undercharged insolvent,

- (iv) If he is convicted of having violated Rules about elections, provided that limitation of his disqualification shall be fixed.
 - (v) If whether before or after the commencement of this Act, he has been convicted of any offense and sentenced to imprisonment for not less than one year provided that Government may, after his discharge, remove the disqualification after five years or earlier,
 - (vi) If he has been dismissed from civil or military service.
 - (b) A person shall not be able of being chosen a member of either Chamber while he is serving a sentence of imprisonment.
 - (c) The seat of a person charged as mentioned in the above Sections, disqualifying him from being a member of the Legislature, shall remain vacant until final decision has been made on the subject by the court or authority concerned.
 - (d) For the purpose of this Section, a person shall not be deemed to be disqualified under section (a) (i),--
 - (i) If he is a Minister under the Government,
 - (ii) If he holds certain pension or allowances through reasons other than an office of profit, or
 - (iii) If he receives small freeholds or concessions for work in the villages.
- 31.** If a person sits or votes as a member of either Chamber when he is not qualified or disqualified for a membership thereof, he shall be liable in respect of each day on which he sits or votes to a penalty of Rs. 100 to be recovered as a debt to the Government.
- 32.** (a) Subject to this Act and Rules of procedure of the Legislature, there shall be freedom of speech in the Legislature, and no member thereof shall be liable to any proceedings in any court in respect of anything expressed or any vote given by him in the Legislature or any Committee thereof and no person shall be so

liable in respect of the publication by or under the authority of the Legislature of any report, paper, or proceedings.

- (b) No member of the Legislative Assembly shall be liable to any arrest or imprisonment during the meeting of the Assembly and within the precincts of the Chamber or to any proceeding under civil proceeding during the whole period of any particular session of the Assembly.
 - (c) No member of the Legislative Assembly shall be liable to any punitive or disciplinary action by the President other than being expelled from the Chamber for infringing the rules or behaving in a disorderly manner.
- 33.** Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may be prescribed by the Government at the first instance and thereafter as determined by an act of the Legislature.
- 34.** (a) Subject to the provisions of this Act, any member of the Legislative Assembly may put questions, move resolutions and introduce Bills regarding the welfare and administration of the whole of Nepal or any part thereof and for the subjects of Nepal, wherever they may be residing, provided that *Shree Teen Maharaja* may disallow the putting of any question, the moving of any resolution, and the introduction or consideration of any Bill, at any stage in the Assembly, if he regards the same as not being in the public interest.
- (b) Nothing can or shall further be said or done in the Assembly by questions, resolutions, or Bills that shall in any way interfere with or enact the succession, position, rights, and privileges of His Majesty *Shree Panch Maharajadhiraja* or *Shree Teen Maharaja* as by ancient law, custom and usages established.
 - (c) No question shall also be raised or discussed in the Legislature about the personal character of any individual, or in respect to the

conduct of any judge in the discharging of his duties.

- 35.** (a) Subject to the provisions of this Act with respect to financial and other Bills, a Bill may originate in either Chamber through any member of the House.
- (b) No Bill shall be deemed to have been passed by the Chambers of the Legislature, unless it has been agreed to by both the Chambers. i
- 36.** (a) If after a Bill or any other measure has been passed by one Chamber and transmitted to the other Chamber,
- (i) The Bill is rejected by the other Chamber,
- (ii) The Chambers have finally disagreed as to amendments to be made in the Bill, or
- (iii) More than twelve months elapse from the date of the reception of the Bill by the other Chamber without the Bill being presented to *Shree Teen Maharaja* for his assent; *Shree Teen Maharaja* may summon the Chambers to meet in a joint sitting for the purpose of desiderating and voting on the Bill.
- (b) Any Bill thus passed at the joint sitting of the two Chambers shall be deemed to have been passed by both Chambers.
- (c) At a joint sitting of the two Chambers the president of the *Bharadari Sabha* or in his absence such person as may be appointed for the purpose by *Shree Teen Maharaja* shall preside.
- 37.** All Bills passed for the Assembly shall become Law only after being authenticated by *Shree Teen Maharaja*; and receiving his formal "Seal" (*Khadganishana*).
- 38.** (a) *Shree Teen Maharaja* shall in respect of every financial year cause to be laid before the Chambers of the Legislature a statement of the estimated receipts and expenditure for that year.

- (b) The following details shall be shown separately in the statement:
- (i) The sums required to meet expenditure described by this Act as expenditure charged upon the revenue of the State.
 - (ii) The sums required to meet other expenditure proposed to be met from the revenues of the State.
- (c) The following expenditure shall be expenditure charged upon the revenue of the State.-
- (i) The annual allocated amount of His Majesty *Shree Panch Maharajadhiraja* and of *Shree Teen Maharaja*.
 - (ii) Expenditure on the armed forces.
 - (iii) Salary, pension and allowances of public servants appointed by *Shree Teen Maharaja*.
 - (iv) Expenditure on foreign affairs, including matters governed by treaties or agreements, now in force or to be made hereafter.
 - (v) Expenditure for the purpose of the discharge by the Government of its special responsibilities with respect to the prevention of any grave menace to the peace and tranquility of the country or any part thereof, the safeguarding of the financial stability and credit of the Government, the protection of the weak and depressed from oppression of the elites and with respect to items of expenditure, if any, that may be classified for being spent at the exclusive discretion of *Shree Teen Maharaja*.
 - (vi) Salaries and allowances of members of the Council of Ministers, the Government Legal Advisor and Auditor-General.
 - (vii) Expenditure on religious *Guthi* and Trusts
 - (viii) Interest on Loans and charges on account of Sinking Fund.
 - (ix) Any other expenditure charged by this Act or for any other reason to be so charged.

- (d) Any question whether any proposed expenditure falls within a class of expenditure charged upon the revenue of the State shall be decided by *Shree Teen Maharaja*.
- 39.** (a) So much of estimates of expenditure as relate to expenditure charged upon the revenue of the State shall not be submitted to the discussion or vote of the Legislative Assembly, provided that discussion may be allowed in either Chamber on estimates referred to in Section 38(c) (vii), (viii) and (ix).
- (b) The expenditure with respect to grants on account of *Panchayats* shall fall within items to be submitted to the Legislative Assembly for discussion, provided that no curtailment shall be made on the estimates submitted.
- (c) So much of the said estimates as relate to other expenditure shall be submitted in the form of demands for grants to the *Rastra Sabha* and then the *Bharadari Sabha* and either Chamber shall have power to refuse to assent to any demand or to assent to any demand with such alterations as it might deem necessary.
- (d) No demand for a grant shall be made except on the recommendation of *Shree Teen Maharaja*.
- 40.** *Shree Teen Maharaja* shall authenticate by a signature all grants made and voted upon by the Legislative Assembly and no expenditure shall be deemed lawful unless so duly authenticated.
- 41.** If in respect of any financial year, other expenditure becomes necessary over and above the expenditure theretofore authorized for the year a supplementary grant may be obtained from the Legislative Assembly in accordance with the process and provisions mentioned above.
- 42.** (a) A Bill or an amendment with regard to the following matters shall not be introduced or moved except on the intimation of the Government :
- (i) Imposing or altering any tax, or
- (ii) Government coinage and currency, or

- (iii) The borrowing of money and the undertaking of any financial obligation by the Government, or
 - (iv) Regulation about arms and ammunitions.
 - (b) All Bills or resolutions affecting the religion or religious rites and usages of any group or institution shall be deemed to have passed by the Legislature only if two-thirds of the members present and voting give their assent to it.
- 43. a) Rules shall be made by Government for the smooth and speedy conduct of business of the Legislative Assembly.
- b) *Shree Teen Maharaja* shall give consideration to the question of altering these Rules if half of the members of the House consider such alteration is necessary.
- 44. All proceedings in the Legislative Assembly shall be conducted in Nepali, the National Language.
- 45. (a) The validity of any proceedings in the Legislative Assembly or the conduct of an officer doing rightful duty within the Legislative Assembly shall not be subject to the jurisdiction of any court of law.
- (b) Nor shall the validity of any proceedings in the Legislative Assembly be called in question on the ground of any alleged irregularity procedure.
- 46. *Shree Teen Maharaja* in the advice of the Cabinet may promulgate such temporary law ordinance as are necessary for the preservation of law and order in the country or any part thereof. Such ordinance shall be valid for a period not exceeding six months before which such ordinance may be annulled by *Shree Teen Maharaja* if he considers that the situation no longer warrants the continuation of such ordinance.
- 47. (a) If, at any time, *Shree Teen Maharaja* is satisfied that a situation has arisen in which, for the prevention of disorder and maladministration in the country, the governance system cannot be carried on in accordance with the provisions of this Act, may,

by proclamation-

- (i) Assume to himself all and any of the powers vested by this Act in any body or Assembly;
 - (ii) Declare that such questions as are defined in this Act shall be conducted in the manner prescribed by him in his discretion.
- (b) Any such proclamation may be revoked or varied by a subsequent proclamation.
- (c) Within six months of such proclamation, *Shree Teen Maharaja* shall summon the same or next Legislative Assembly.

PART -V

ADMINISTRATION OF JUSTICE

- 48.** Justice shall be affordable and speedy. Elementary civil and criminal justice shall be administered by the village *panchayats* in such manner and subject to such restrictions and supervision as may be prescribed by law.
- 49.** Justice shall be administered by Judges in public courts, established for the purpose. The court shall comprise courts of first instance and also courts of appeal.
- 50.** Subject to the provisions of this Act, the organization and management of courts, the distribution of jurisdiction and business among the court judges, the method of recruitment, terms and conditions of service of Judges and all other matters relating to administration of justice shall be regulated by law.
- 51.** Special courts may, in extraordinary circumstances, be established by *Shree Teen Maharaja*, if he considers that the procedure of ordinary courts would not be adequate to secure the preservation of public peace and order.
- 52.** (a) *Shree Teen Maharaja* shall appoint from among the members of

the Legislative Assembly, a Judicial Committee, which shall consist of not more than twelve members including two members with special qualifications from outside the Legislative Assembly.

- (b) The Committee shall have Authority-
 - (i) To frame Rules and *Sawals* (Regulations) to secure justice for all, regarding composition of the benches, proceeding of the Hearing, in the special cases so prescribed.
 - (ii) To carry out the provisions as specified in Section 67 of this Act.
- (c) Subject to the provisions of this Act, Rules regarding the composition and functions of this Committee shall from time to time be framed by the Government.

- 53.** (a) There shall be a Supreme Court for Nepal (Pradhan Nyayalaya).
(b) The Supreme Court shall consist of a Chief Justice and such other Judges, not exceeding twelve in numbers, as *Shree Teen Maharaja* may from time to time deem it necessary to appoint.

Provided that *Shree Teen Maharaja* may, on the recommendation of the Chief Justice, appoint to act as additional judges of the Supreme Court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, while so acting, have all the powers of a judge of the Supreme Court.

- 54.** Every permanent judge of the Supreme Court shall hold office until he attains the age of sixty-five years:

- (a) A judge may by resignation under his hand addressed to *Shree Teen Maharaja* resign his office;
- (b) *Shree Teen Maharaja* shall not remove any judge from his office unless the joint sessions of the Legislative Assembly do not pass a resolution on the ground incapacity and misbehaviour.
- (c) *Shree Teen Maharaja* shall remove a judge, if the Judicial

Committee recommends to him that a judge is incapacitated or incapable, on the ground of committing High Crimes on being mentally or physically incapable to discharge his duty.

(d) The judges of the Supreme Court shall receive such remuneration as *Shree Teen Maharaja* may fix; but the remuneration shall not be altered during their continuance in office.

55. The Supreme Court shall maintain the classification of cases and its record and shall have the jurisdiction and authority over the subordinate courts and matters relating to justice as prescribed in the law.

56. The Supreme Court shall have supervisory authority over all Courts within its jurisdiction and may do any of the following things,-

- (a) To hear case upon call for returns and cause to do so;
- (b) Direct to transfer of any suit or appeal from any such court to any other Court of equal or superior jurisdiction;
- (c) Make and issue Rules and prescribe forms for regulating the practice and proceedings of such courts;
- (d) Prescribe forms in which books, entries, accounts and case files shall be kept by the Courts;

Provided that such rules and forms shall be consistent with the provisions of any law for the time being in force.

57. Until steps have been taken *in* regard to any matter Covered by the provisions of this chapter, the existing laws and regulations in regard to that matter shall continue to be in force.

58. Act shall be made for the protection of judges and other officers acting judicially, for acts done or ordered to be issued by them in good faith in the discharge of their duties.

59. Nothing contained in this Act shall derogate from the right of *Shree Teen Maharaja* to grant pardons, reprieves, respites, or remission of punishments.

PART- VI

MISCELLANEOUS

60. As Soon after the commencement of this Act as expedient, the Government shall provide for universal, free, compulsory, elementary education, and technical and higher education will be provided by the State to the extent necessary to prepare candidates for wide opportunities of service of the people of Nepal. In addition, the State will provide as far as possible for the elimination of illiteracy. The aim of educational institutions shall be good moral training, personal and vocational efficiency and the development of the spirit of nationality and international friendliness.
61. The Government shall have the authority to raise loans for the development of the State or in times of emergency, provided that it shall lay this information before the Legislative Assembly at its next meeting.
62. (a) *Shree Teen Maharaja* shall appoint an Auditor General (Pradhan Janchakee) to audit the income and expenditure of the state pursuant to the Rule made by the Government.
He shall only be appointed and removed from office in like manner and on like grounds as a judge of the *Pradhan Nyayalaya*.
- (b) The Auditor-General shall submit to *Shree Teen Maharaja* a report, relating to the accounts of the State, for being laid before the both Chambers of the Legislative Assembly.
63. All acts and contracts made by the Council of Ministers in exercise of its executive authority shall be expressed on behalf of the Government of Nepal.
64. (a) The Government shall frame Rules implementing and elucidating this Act, especially with regard to fundamental rights, *panchayats*, judiciary, auditors, education, recruitment, promotions and transfers for the civil and military service and for

the purpose of safeguarding the interests of public servants and the armed forces and for all matters not provided for in the Act.

- (b) The Government shall also frame Rules regarding the qualifications of the voters and candidates, delimitations of constituencies, and other matters relating to election.
- 65.** (a) There shall be a *Darkhasta Parishad* (Public Service Commission), constituted by *Shree Teen Maharaja* for the propose of recruiting the qualified candidates.
- (b) It shall consist of such members as may be appointed by *Shree Teen Maharaja* for the purpose together with representatives of departments where vacancies may have occurred.
- (c) It shall be the duty of the Public Service Commission within the Rules to be framed under this Act to examine the fitness and qualifications of candidates for government service and to submit their recommendation.
- 66.** Whereas difficulties may arise in relation to the implementation of this Act for the first time, *Shree Teen Maharaja* may issue such orders as may be necessary for removing the difficulties and implementing the provision of this Act.
- 67.** Any disagreement about the interpretation of any of the provisions of this Act or Rules framed thereunder, shall be referred to the Chief Judicial Committee which shall give its judgment within two months from the date of reference. This judgment shall be deemed final for all purposes.
- 68.** (a) At the expiration of seven years from the commencement of this Act or if possible earlier as *Shree Teen Maharaja*, in his sole discretion, may determine, *Shree Teen Maharaja* shall appoint a Commission. As near half of the members as possible shall be elected by the Legislative Assembly for the purpose of enquiring into the working of the Government, the growth of education, and development of representative institutions, and matters connected

therewith. The Commission shall report as to whether and to what extent it is desirable to extend, modify or restrict the degree of constitutional advance then existing therein. The Commission shall also enquire into the report on any other matter which may be referred to the Commission by *Shree Teen Maharaja*. *Shree Teen Maharaja* shall, on report of that Commission, take such action as may be deemed necessary and desirable for implementing the recommendations of the said Commission.

Nepal Law Commission

SCHEDULE A
COMPOSITION OF RASTRA SABHA

1. Elected Members: - 42
- (a) The Pradhan Panch of the following Zilla Panchayats: - 32
- | | |
|-----------------------|---------------------------|
| 1. East No. 1. | 6. Ilam |
| 2. East No. 2. | 7. West No. 1. |
| 3. East No.3. | 8. West No.2. |
| 4. East No.4. | 9. West No.3. |
| 5. Dhankuta. | 10. West No.4. |
| 11. Palpa. | 22. Bara Parsa. |
| 12. Gulmi. | 23. Rauthat. |
| 13. Sallyana. | 24. Mahotari. |
| 14. Piuthan | 25. <i>Sarlahi.</i> |
| 15. Dailekh. | 26. Saptari. |
| 16. Doti. | 27. Siraha. |
| 17. Dandeldhura. | 28. Morang & Jhapa. |
| 18. Baitadi. | 29. Palhi and Majhkhand. |
| 19. Jumla. | 30. Khajhani & Seoraj. |
| 20. Chisapani. | 31. Banke and Bardia |
| 21. The Valley Proper | 32. Kailali & Kanchanpur. |
- (b) The Pradhan Panch of the following Nagar Panchayats :- 4

33. Kathmandu 34. Patan. 35. Bhaktapur. 36. Birganj

Note: The boundaries of constituencies may, taking the areas and population into consideration, be redrawn so as to give equal representation as far as Possible, but the number of total seats shall in no case vary.

- (c) List of the interests to be represented in the *Rastra Sabha* by election and the seats allotted to each.

Interests (Constituencies)-

- (i) Merchants and traders 1 those paying Rs. 100 or more to the Government as customs duty or market fees shall elect one representative from among themselves. 1
- (ii) Zamindars (Landlordas) and holders of Birtas 1 Those owning 20 Ropanis or 10 Bighas of land or their equivalent in the hill districts or more or those paying Rs. 1,000 or more to Government as land revenue shall elect one representative from among themselves. 2
- (iii) Intelligentsia Matriculates or *Madhyama* or those with higher qualifications shall elect at least a graduate or an *Acharya* or those having equivalent qualification in Nepali. 1
- (iv) Government servants 1
- (v) Labour 1

Note: Rules and Regulations concerning Sections (iv) and (v) shall be framed by Government.

2. Nominated members - 28

Shree Teen Maharaja will nominate these.