

THE CONSTITUTION
&
CONSTITUTIONS
OF
NEPAL

GERMAN VOLUNTEER SERVICE
P. O. BOX 44
KATHMANDU, NEPAL
PHONE: -12405

27/4/74 C

P. Neupane, B. A., B. L.

RATNA PUSTAK BHANDAR
PUBLISHERS & BOOKSELLERS
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NEPAL

Constitution of Nepal

EFFECTIVE APRIL 1, 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 3 Maharajas.

And whereas I, Maharaja Padma Shum Shere Jung Bahadur Rana, am 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,

GOVERNMENT
OF
NEPAL ACT, 2004

I, Maharaja Padma Shum Shere Jung Bahadur Rana, do hereby ordain and promulgate that Constitutional Act in the thirty-sixth year of the reign of His Majesty Shree 5 Maharajadhiraja Tribhubana Bir Bikram Shah.

PART I

PRELIMINARY

1. This Declaration may be cited as the "Government of Nepal Act 2004 Sambat" (1948 A.D.).
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 will not be practicable or convenient that all the provisions of this Act should come into operation simultaneously on that date, he may, notwithstanding anything in this section, fix an earlier or later date for the coming into operation, 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 to His Majesty the Maharajadhiraja Sree 5 and His Highness the Maharaja Shree 3, 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 AND DUTIES

4. Subject to the principles of public order and morality this Constitution guarantees to the citizens of Nepal

freedom of person, freedom of speech, liberty of the press, freedom of assembly and discussion, freedom of worship, complete equality in the eye of the law, cheap and speedy justice, universal free compulsory elementary education, universal and equal suffrage for all adults, security of private property as defined by the laws of the State as at present existing and laws and rules to be made hereunder.

5. Subject to this 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 Sree 5 and His Highness the Maharaja Sree 3 and be faithful to the State and its Constitution.

PART III

THE EXECUTIVE

6. Subject to the provisions of this Act, the executive authority of Nepal shall be exercised by His Highness Sree 3 Maharaja either directly or through officers subordinate to him.
7. (a) There shall be a Council of Ministers to aid and to advise His Highness in the exercise of the executive authority of the State, chosen from among the members of the Legislature.
(b) The Council shall consist of such member of ministers, not being less than five, of which two at least shall be chosen from among the elected members of the Legislature, as His Highness 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) His Highness the Maharaja or in his absence the Commander-in-Chief shall preside at meetings of the Council of Ministers. The Ministers shall work within the framework of the rules made by His Highness for the purpose and be responsible to him.
- (b) His Highness shall also allocate portfolios among his Ministers and determine their order of precedence.
9. The Ministers appointed by His Highness the Maharaja shall be sworn as members of the Council and shall hold office for a term of four years. Any Minister shall vacate his office before the expiry of his term only if he—
- (a) Submits his resignation under his hand addressed to His Highness the Maharaja;
- (b) Does not command the confidence of His Highness the Maharaja; or
- (c) Himself admits or is condemned by secret ballot of the Council of Ministers of having committed some grave offense.
- Provided that if he has vacated office under subsection (a) or (b) above, he shall not cease to be a member of the Legislature for the remaining term of his office.
10. The ministers shall be entitled to receive such salaries and allowances as may from time to time be determined by His Highness the 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 all 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 an Advocate-General 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 His Highness and shall receive such remuneration as His Highness 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 His Highness, whether these departments fall within the purview of the Legislature or not.
- (b) A Committee, appointed by His Highness 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 Panchayats

16. There shall be a "Gram" 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" 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 city 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 well being of the people.
20. The Zilla panchayats will receive from the Centre the allotted share of the funds for the Zilla concerned. They shall retain half of the fund for their own use and distribute the other half 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 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 Legislature

22. (a) There shall be a State Legislature of Nepal which shall consist of His Highness the 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 per Schedule "A" of this Act, provided that the ration 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 His Highness to represent as far as possible the chief national interests and activities.
- (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, His Highness the 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. His Highness the Maharaja may in his discretion address or send message to either or both Chambers. The Legislature shall with all convenient despatch consider any

- matter which it required to take into consideration in such an address or messages.
25. Every minister or the chairman of the Administrative Committee or in his absence the Departmental Secretary and the Advocate General 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 His Highness the Maharaja and 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 their office by writing under their hand addressed to His Highness the Maharaja or may be removed from office by order of His Highness the 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-third 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 His Highness the 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 member of 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 in the form and manner prescribed by rules under this Act.
29. (a) No person shall be a member of both the Chambers.
- (b) If a member of the Legislature becomes subject to any of the disqualifications mentioned in Section Thirty, the next succeeding section, or by writing under his hand addressed to His Highness resigns his seat, thereupon his seat shall become vacant.
- (c) If for two consecutive sessions of either Chamber or for forty-five days running, a member of the Chamber, without the permission of the President there-

- of, 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 he holds any office under the Government other than an office, declared by rules made under this Act not to disqualify its holder,
- (ii) If he is of unsound mind,
- (iii) If he is an undischarged insolvent,
- (iv) If he is convicted of having violated rules about elections, made under this Act, provided that the time limit of his disqualification shall be fixed by the same rules,
- (v) If whether before or after passing of this Act, he has been convicted of any offense and sentenced to imprisonment for not less than one year by a Court in Nepal 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, provided that Government may remove the disqualification after five years or earlier.
- (b) A person shall not be capable being chosen a member of either Chamber while he is serving a sentence of imprisonment.
- (c) The seat of a person charged as per 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) Subjects to the rules and standing orders regulating the 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 said 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 Legislature shall be liable to any arrest or imprisonment during the meeting of the Legislature and within the precincts of the Chamber or to any proceedings under civil process during the whole period of any particular session of the Legislature.
- (c) No member of the Legislature 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 Legislature shall be entitled to receive such salaries and allowances as may be prescribed by His Highness 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 Legislature may ask questions, move resolutions and introduce Bills regarding the welfare and administration of the whole of the Kingdom of Nepal or any part thereof and for the subjects of Nepal, wherever they may be residing, provided that His Highness the 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 Legislature, if he regards the same as not being in the public interest.
- (b) Nothing can or shall further be said or done in the Legislature by questions, resolutions, or Bills that shall in any way interfere with or enact the succession, position, rights, and privileges of His Majesty Sree Maharajadhiraja or His Highness Sree 3 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.
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 His Highness the Maharaja for his assent; His Highness the 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 His Highness the Maharaja shall preside.
37. All Bills passed by the Legislature shall become Law only after being authenticated by His Highness; and receiving his formal "Seal".
38. (a) His Highness the 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) This statement shall show separately the following :—
- (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 Civil Lists of His Majesty Sree 5 Maharajadhiraja and of His Highness Sree 3 Maharaja.
- (ii) Expenditure on the armed forces.

- (iii) pay, Pension and allowances of public servants appointed by His Highness.
- (iv) Expenditure on foreign affairs, including matters governed by treaties or agreements, now in force or hereafter to be made.
- (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 and with respect to items of expenditure, if any, that may be classified for being spent at the exclusive discretion of His Highness the Maharaja.
- (vi) Salaries and allowances of members of the Council of Ministers, the Advocate-General and Auditor-General.
- (vii) Expenditures 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 any other law 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 His Highness.
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 Legislature, 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 Legislature 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 His Highness the Maharaja.
40. His Highness shall authenticate by a signature all grants made and voted upon by the Legislature 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 that year a supplementary grant may be obtained from the Legislature in accordance with the process and provisions mentioned above.
42. (a) A bill or an amendment with regard to—
- (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, shall not be introduced or moved except on the intimation of the Government.
- (b) All Bill or resolution affecting the religion or religious rites and usages of any class 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. Provisions shall be made by Government for the smooth and speedy conduct of business of the Legislature: Provided that Government shall give consideration to the question of altering these rules if half the members of the House consider such alteration necessary.
44. All proceedings in the Legislature shall be conducted in Nepali.
45. (a) The validity of any proceedings in the Legislature or the conduct of an officer doing his rightful duty within the Legislature shall not be subject to the jurisdiction of any court of law.
- (b) Nor shall the validity of any proceedings in the Legislature be called in question on the ground of any alleged irregularity procedure.
46. His Highness the Maharaja in Council may promulgate such emergency regulations as are necessary for the preservation of law and order in the country or any part thereof. Any such regulation shall be valid for a period not exceeding six months before which these regulations may be annulled by His Highness if he considers that the situation no longer warrants the continuation of these regulations.
47. (a) If, at any time, His Highness is satisfied that a situation has arisen in which, for the prevention of disorder and lawlessness in the country, the Government can not 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 authority;

- (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, His Highness shall summon the Legislature.

PART V

ADMINISTRATION OF JUSTICE

- 48. Justice shall be cheap and speedy. Elementary civil and criminal justice shall be administered by the village panchayats in such manner and subject to such control and supervision as may be prescribed by law.
- 49. Justice shall be administered by Judges in public courts, established for the purpose. The courts shall comprise courts of first instance and also courts of appeal.
- 50. Subject to the provisions of this Act, the constitution and organization of courts, the distribution of jurisdiction and business among the courts and judges, the method of recruitment, terms of service 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 His Highness the Maharaja, if he considers that the procedure of ordinary courts would not be adequate to secure the preservation of public peace and order.
- 52. His Highness shall appoint from among the members of the Legislature, a Judicial Committee, which shall consist of not more than 12 members including two members

with special qualifications from outside the Legislature. The Committee shall have power—

- (i) To act as the Supreme Court of Appeal in special cases under such provisions as may be made under this Act.
- (ii) To frame rules and regulations for the administration of justice, and
- (iii) To carry out the provisions as specified in Section 67 of this Act.

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 High Court for Nepal (Pradhan Nyayalaya).
- (b) The High Court shall consist of a Chief Justice and such other judges, not exceeding twelve in number, as His Highness may from time to time deem it necessary to appoint.
Provided that His Highness may, on the recommendation of the Chief Justice, appoint to act as additional judges of the High 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 High Court.
- 54. Every permanent judge of the High Court shall hold office until he attains the age of sixty-five years :
 - (a) A judge may by resignation under his hand addressed to His Highness resign his office;
 - (b) A judge may not be removed from his office except by His Highness on a joint address by the Legislature, praying for such removal on the ground of proved misbehaviour or incapacity;

- (c) A judge may be removed by His Highness on the ground of gross misbehaviour or infirmity, physical or mental, if the Judicial Committee of the Legislature on reference by His Highness so recommends;
- (d) The judges of the High Court shall receive such remuneration as His Highness may fix; but the remuneration shall not be altered during their continuance in office.
55. The High Court shall be a court of records and have such jurisdiction, and such power and authority over or in relation to the administration of justice, as may be vested in it by law.
56. The High Court shall have superintendence over all courts for the time being subject to its jurisdiction, and may do any of the following things, that is to say,—
- Call for returns;
 - Direct to transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;
 - Make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
 - Prescribe forms in which books, entries, and accounts shall be kept by the officers of any such 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. Provisions shall be made by law for the protection of judges and other officers acting judicially, for acts done or

ordered to be done by them in good faith in the discharge of their duties.

59. Nothing contained in this Act shall derogate from the right of His Highness 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 liquidation of adult 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 Legislature at its next meeting.
62. (a) There shall be an Auditor-General to be appointed by His Highness the Maharaja and he shall draw such salaries and allowances as His Highness the Maharaja may determine. It shall be his duty to examine and audit the accounts of the State, subject to such rules as may be framed in this behalf. He shall only be removed from office in like manner and on like grounds as a judge of the Pradhan Nyayalaya.

- (b) The Auditor-General shall submit to His Highness a report, relating to the accounts of the State, for being laid before the Legislature.
63. All acts and contracts made by the Council of Ministers in exercise of its executive authority shall be expressed in behalf of the Government of Nepal.
64. (a) The Government will frame rules implementing and elucidating this Constitution, especially with regard to fundamental rights, panchayats, judiciary, audits, education, recruitment, promotions and transfers for the civil and military services and for the purpose of safeguarding the interests of public servants and the armed forces and for all matters not provided for in this Constitution.
- (b) The Government shall also make rules governing the qualifications of the voters and candidates, delimitations of electoral areas, and other matters relating to election.
65. (a) There shall be a Public Service Commission, appointed by His Highness for the purpose of selecting qualified candidates to all civil posts under the Government.
- (b) It shall consist of such members as may be appointed by His Highness 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 working of this Constitution for the first time, His Highness may make such rules and regulations as may be needed for removing these difficulties and implementing the provisions of this Act.
67. Any dispute about the interpretation of any of the provisions of this Act or rules framed thereunder, shall be referred to the Judicial Committee of the Legislature which shall give its judgement 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 His Highness the Sree 3 Maharaja, in his sole discretion, may determine, His Highness the Sree 3 Maharaja shall appoint a Commission as near half of whom as possible shall be elected by the Legislature for the purpose of enquiring into the working of the Government, the growth of education, and development of representative institutions, and matters connected therewith, and 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.
- (b) The Commission shall also enquire into and report on any other matter which may be referred to the Commission by His Highness the Maharaja Sree 3.
- (c) His Highness the Maharaja Sree 3 shall, on report of that Commission, take such action as may be deemed necessary and desirable for implementing the recommendations of the said Commission.

SCHEDULE A

COMPOSITION OF RASTRA SABHA

1. Elected Members :—

(a) The Pradhan Panch of the following Zilla Panchayats:

- | | |
|-----------------|---------------------------|
| 1. East No. 1. | 17. Dandeldhura. |
| 2. East No. 2. | 18. Baitadi. |
| 3. East No. 3. | 19. Jumla. |
| 4. East No. 4. | 20. Chisapani. |
| 5. Dhankuta. | 21. The Valley Proper |
| 6. Ilam. | 22. Bara Parsa. |
| 7. West No. 1. | 23. Rauthat. |
| 8. West No. 2. | 24. Mahotari. |
| 9. West No. 3. | 25. Sarlahi. |
| 10. West No. 4. | 26. Saptari. |
| 11. Palpa. | 27. Siraha. |
| 12. Gulmi. | 28. Morang & Jhapa. |
| 13. Sallyana. | 29. Palhi and Majhkhand. |
| 14. Piuthan. | 30. Khajhani & Seoraj. |
| 15. Dailekh. | 31. Banke and Bardia |
| 16. Doti. | 32. Kailali & Kanchanpur. |

(b) The Pradhan Panch of the following Nagar Panchayats :

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

N.B. 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)	No. of seats.
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- | | |
|--|----|
| (i) Merchants and traders | 1 |
| Those paying Rs. 100 or more to the Government as customs duty shall elect one representative from among themselves. | |
| (ii) Zamindars 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. | |
| (iii) Intelligentsia | 2 |
| Matriculates or Madhyama or those with higher qualifications shall elect at least a graduate or an Acharya or those having equivalent qualification in Nepali. | |
| (iv) Government servants | 1 |
| (v) Labour | 1 |
| N.B. Rules and regulations concerning Sections (iv) and (v) shall be framed by Government. | |
| 2. Nominated members | 28 |

His Highness the Maharaja will nominate these.

The END

**ADDRESS OF THE PRIME MINISTER OF NEPAL
UPON THE INAUGURATION
OF THE GOVERNMENT OF NEPAL ACT**

Bhai Bharadars, Brothers and Sisters,

You are aware that it is quite a long time now that I have been giving earnest consideration to the question of how continued increase in the prosperity and welfare of our dear motherland may be achieved by means of needful reforms, to the end that the happiness and peace of our people might be enhanced. You may well imagine my deep satisfaction at having been able to summon you here today to listen to the announcement of the scheme for political reforms which has been prepared after much thought and consultation, and which translates into action the deep aspirations I have entertained for such a long time to bring about an improvement in the administration of the country. With the deepest conviction that the glory of the State and the peace and prosperity of the people can grow only by the grace of Shri Rama and Shri Pashupatinath, I make my devout obeisance to them and pray for their blessings, before making today's announcement to you.

You know very well the efforts I have made for the betterment of the country ever since I assumed charge of the administration of this dear land. Economic, social and political problems, the spread of education, the improvement of industry, trade and agriculture, the betterment of the general health of the people—everything has to be attended to simultaneously. Political reforms, more than almost any other matter, have to be undertaken only after long and mature deliberation, and with the consideration of the good

and evil effects they might produce on each and every organ of the State. It is inevitable, therefore, that a work of such complexity and importance should take a little time for completion. Now, before outlining the salient feature of the scheme to be published today, I should like to give you a brief historical sketch of the present administrative set-up of the country.

The present administrative system under which the supreme authority of the State was entrusted to the Rana family started with the joint approval of the king, Bharadars and people on account of frequent commotion and bloodshed in the country, because of which peace and prosperity were fast tending to disappear. It was even feared that the country was on the verge of ruin, and our very independence was seriously jeopardized. It is just over one hundred years ago that power came to the hands of the Ranas. What has happened in the country in those hundred years, in the field of law, usage and customs, of security and freedom from fear, of national and international peace and goodwill, and of the betterment of the country, are matters about which history will relate—I shall not speak of them here. But the fact that this small mountainous country preserved its independence, that Nepal was able to maintain her rightful place in the comity of the free peoples of the world, situated as she was between the mighty empire of China on the one hand and the rising flood of British power on the other, is one which her rulers, the Ranas, can take legitimate pride.

“With the king overhead, and the people on the lap”, we, the Ranas, have carried on the administration of the country in accordance with our sacred usages between king and people, proudly flying the flag of a Hindu constitutional monarchy, as described in our Shashtra. It was only for the sake of the welfare of the people that we came up. I ask you to under-

stand clearly, and to believe me, when I say that we are ready and prepared at all times to do all that may be necessary for the sake of the people.

It is not a fact that no attempt was made during this long period to associate the people with the government in the administration of the country, but all such attempts failed because the time was not yet ripe. For example, a Parliamentary cutchery was established in Basantapur in the year 1851. The government of the day was so enamoured of the British system that it desired to introduce the same kind of parliamentary institutions here, in which the people's will might find expression. But the people showed energetic disapproval, because they thought that Nepal which had previously been brought to the verge of catastrophe by the multiplicity of leadership was again being led on the same path in imitation of foreign manners and customs. The experiment to introduce parliamentary institutions had perforce to be dropped. Again in 1918 an attempt was made in the same direction with the introduction as a first step of the elective system in the municipality of the capital. But there was much disorder in the city during the election, and communal quarrels and breaches of the peace occurred among the city dwellers, who had been living heretofore in peace and mutual co-operation, and so the election had to be abandoned, and an arrangement had to be made for the selection of members by the government in order to carry on the municipal administration.

It is indeed gratifying that we have thus been frequently honoured with the love and confidence of the majority of our people. But, even so, if you do not help us, and take your share in the administration, there is a risk of the world saying that you are incapable of shouldering any responsibility and we are unwilling to yield any power.

I made my first public mention on the subject of political reforms on the 13th February, 1947, in the following words : "I should like to mention one more matter. As I think it would be a great help towards the progress of the country if an arrangement could be made to associate the people even more closely than at present with the government, as is the practice in the greater part of the world to-day, I have been consulting with my cousins, nephews and Bharadars on the subject. You are aware that such a complex matter cannot be taken in hand at once, because a decision on such matter can be made only after full and mature deliberation. Immediately these consultations are over, and a decision is arrived at as their result, I shall summon you again to announce it." But as early as December, 1946, I had started to consult those of my cousins and nephews in the Roll who had reached the age of thirty years. They all supported my views, and gave me full co-operation. Then I invited the opinions of my other cousins and nephews, and of the Bharadars. They thought that I should do something, but pointed out that there were four Varanas, and thirty-six castes in the country, and they suggested that political training should be given gradually to the people so that existing peace and security might not be disturbed. In order that all these opinions might be studied and the various replies classified, the Reforms Committee was established in April, 1947. The members of the Reforms Committee discussed the subjects among themselves, and also held consultations with exports from India. Though the draft of the constitution was soon ready, it took longer to frame the rules and regulations which were necessary to make it operative, and the experts too could not produce them offhand, but had to get help from various libraries. When everything is considered, I can see that such a difficult work has been done here with

expedition and ease. Now I ask you to listen to the provisions of the new constitutional Act.

I hope you have all listened to the Act of the constitution with attention, I should now like to say something about its special features, and to throw some light on its object and significance.

You have no doubt understood what our intention and goal is from the preamble to the Act. You know, the history of the whole world does not show unanimity of opinion on the question of what is the best form of government. Neither has the United Nations Organization, composed of illustrious representatives of all the nations of the world tried or been able to decided the matter. Different forms of government prevailed in the world at different periods, sometimes democracy, sometimes kingship and, at intervals dictatorships were also in existence. In modern times, too, different systems of government exist in different countries. The only criterion of good government is that it must lead to the greatest good of the greatest number or, in other words, that governmental system is the best which leads to good administration, and bring about an increase in the total happiness and peace of the country.

With regard to Fundamental rights, we have tried to make provision for them in a manner similar to that which obtains in the advanced countries of the world. Our laws and regulations being incomplete in this regard, we have tried to make them approximate to those of India and other advanced countries. You will surely understand that there must be some restrictions in the activities of the people within the limits of the prime necessity of public order and morality. The people have rights as well as obligations, and both rights and obligations are to be exercised for the common good. The needs and usages of no two countries are entirely alike.

It is not the intention of the government to impose any further restrictions in this country than those that prevail in other countries, except in so far as they are necessary, specially in the domain of religion.

Our desire to associate the people in the administration is clearly manifested in the creation of a Council of Ministers in which representation is given to popularly elected members of the legislature; as also by the formation of Administrative Committees.

There is a unique feature in the system for the election of members to the central legislature. We have tried to mould to elective system of the west to the Panchayat system, which is an essential part of our heritage and culture. The right of the vote has been conceded to all adults, but in this connection it seems to be necessary for the government to take a special precaution. It is the government's desire that all good, able and energetic elected representatives of the people should come to the center and co-operate with the government, but it would be very unfortunate if the introduction of political elections should lead to quarrels or disorder in the country, and I need not say that the government will not allow this to happen under any circumstances. It is not the intention of the government that the country should be thrown into the vortex of the party system, and the government will never lend its encouragement to the habit of bringing about the election of any candidate by the strength of party machinery rather than by his own ability and eligibility. The election system has been introduced because it helps to bring the most able individual to the front, but we should take care not to allow the concomitant evils of electioneering excessive expenditure, worry and strife, simultaneously to creep into our political life.

Bicameral legislature for the center is a well recognized

political institution, and everybody knows that in almost all the countries of the world there are two houses of the legislature. There are nominated members in both our houses. It is necessary in the interests of efficient administration that such members should be appointed until there is more wide spread political education in the country. Seats have also been given in the legislature to special interests. The powers and functions of the legislature are generally of the nature conferred by the Government of India Act, 1935.

Many people seem to be labouring under a misconception regarding our national revenue and expenditure. Now that this subject has also been placed within the jurisdiction of the legislature, it is hoped that such misconception will be removed. The provision made in the Act for the appointment of an Auditor-General will also, I hope, serve to express our intention to help in the removal of such a suspicion.

It will not be necessary for me to say anything on the provisions of the constitution relating to special powers, or to the powers conferred on the Prime Minister to suspend or withdraw the constitution in order to meet the situation created if a sudden grave emergency arises and threatens to disturb public tranquility. Special powers for special circumstances are provided for in the Constitutions of all States.

You must have learnt from the Constitution of our efforts to establish an independent judiciary. We have built the edifice of the administration of the law upon the foundation of our ancient Panchayati Adalat because it was deemed better to reform our own system by necessary improvements than to transplant an entirely foreign system into the country. It is hoped that this will reduce the burden of litigation, as the majority of petty disputes will tend to be settled by the Panchayat in their initial stage. You will also see how in the

higher levels justice has been kept absolutely independent, and separate from the executive. Judges are not liable to dismissal within the limit of their retiring age unless they are recommended for removal by the Legislature, and there is provision that their salaries are not subject to arbitrary increase or decrease. It is expected that our desire in this respect will also be fulfilled by the provision that as long as judges discharge their functions and duties in good faith, they will not be subject to any pressure, or to any censure, from any outside quarter whatsoever.

You must have also noted another important provision. Our Constitution is not a rigid or inflexible structure, as is the case with the Constitutions of many countries. We have for the present provided for everything that has been considered necessary and reasonable to suit the existing condition of the country. Some features of our Constitution are entirely original, while others follow the characteristics visible at different stages in the development of various countries. Provision has also been made for development and change from time to time, after the study of the advantages accruing to our country from it, and on consideration of the extent to which our people succeed in adopting it in actual practice.

Now there is not much left to tell you. We have decided to introduce those constitutional reforms in the very first step which other states, and our neighbours, did in two or three stages, and at long intervals. The success of this effort, prompted by our affection for the country and its people, will depend on you gentlemen who will work according to this scheme, and who will bear the responsibility. Nothing that man does can be entirely free from faults, and it is easy to pick faults in anything. But of what help is text-book criticism in our noble undertaking

of nation-building ? Any school boy who studies the political constitution of India and other countries can easily reproduce such from memory. But I have full faith in the wisdom and good will of the citizens of my country. A habit of fault finding, or of carping criticism, will never enable us to realize our objective. I have every hope that our people will take right road of making themselves fitter to shoulder greater responsibilities by improving themselves, and by helping the government with diligence and co-operation in this great endeavour, and will also exhibit to the world that my confidence in them is not by any means misplaced. It is only thus that we can march forward to progress in an atmosphere of peace and order in the country.

Look at the many countries to-day where both the governments and the peoples are working untiringly for improvement, and for the increase of their material prosperity, but the speed of their progress has been reduced by strife and civil commotion, and they are now struggling in distress and want. It is the first duty of the rulers to save our country from a similar fate. It was my intention to liberate the men now under political detention in our country, and those whose offenses were not considered to be very heavy have been released. As for those who remain in detention, their confederates have indulged in reckless threats to throw the country into chaos and bloodshed as happened in 1942 in our neighbouring country. In these circumstances, it has not been possible to release them because of the advice of my cousins and also of the reports from the Police Department that this is not the time to make a gesture of mercy or good will.

May the rulers and people of this land derive benefit from these new reforms, and climb steadily upward to the

peak of progress and prosperity, along the road of peace and order ! I am now getting old, and my health too is not very good. These new reforms proposals have been decided upon after discussion also among my cousins the Commander-in-Chief and the Commanding-Generals. It might take some years to appraise the working and the effects of the new Constitution, and I hope greatly that though I may not be able personally to see it in actual operation, I shall certainly be able to hear that it is being worked in a beneficent manner. My cousins are capable and wise; and in whatever work I have done I have received co-operation and concurrence from them. Therefore I have no hesitation in saying that the new principle and system that I have inaugurated will not only be followed by them, but will also surely be developed and improved upon. I have no misgivings about it and I can assure you that you too need entertain none.

I thank the members of the Reforms Committee who have helped to prepare the new Constitution with such promptitude and diligence.

Before bringing the day's proceedings to a close, I thank you, all the good people who are assembled here to-day to hear me. I render thanks to Shri Rama and Shri Pashupati-nath, by whose grace and kindness only I have been able to avail myself of this opportunity to make today's announcement for the welfare of my dear people. May They afford wisdom to all the inhabitants of this land so as to enable them to bring about increasing welfare and prosperity by a proper and judicious working of the Constitution Act announced to-day.
