

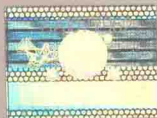
DR DURGA DAS BASU

★ **COMPARATIVE** ★
CONSTITUTIONAL
★★★ **LAW** ★★★

3RD EDITION

Revising Editors

JUSTICE G B PATNAIK
YASOBANT DAS
RITA DAS



Dr Durga Das Basu
Comparative
Constitutional Law

Acharya Dr Durga Das Basu

*MA, LL.D. (Cal); D Litt (Cal Burd; Rabindrabbarti; Kalyani);
Saraswati, Vacaspati, Vidyavaridhi, Prajnabharati, Nyayaratnakara, Neetibhaskara,
Nyayabharati, Manava Ratna, Honorary Professor, Banaras Hindu University;
Retired Judge, High Court, Calcutta; Formerly Member, Union Law Commission; Tagore
Law Professor, Asutosh Memorial; Lecturer, Calcutta University; Recipient, National Award,
Padmabhushan (1985); National Research Professor of India (1986); National Citizen's
Award (1991); Honorary Fellow, Asiatic Society, Calcutta (1994)*

3rd Edition

2014

Hon'ble Mr Justice G B Patnaik

Chief Justice of India

Yasobant Das

Senior Advocate, Supreme Court of India

Rita Das, PhD Political Science

Assisted by

Arvind Kumar Tiwary

Advocate, Supreme Court of India



LexisNexis®



This book is a publication of **LexisNexis**
(A Division of Reed Elsevier India Pvt Ltd)
14th floor, Building No 10, Tower-B, DLF Cyber City, Phase-II,
Gurgaon-122002, Haryana, India.
Tel: + 91 124 4774444 Fax: + 91 124 4774100
Website: www.lexisnexis.co.in / E-mail: help.in@lexisnexis.com

© Copyright reserved in the Estate being in the Goods of the Author Dr Durga Das Basu, deceased.

The publishing rights are reserved and vested exclusively with LexisNexis (A Division of Reed Elsevier India Pvt Ltd). No part of this publication may be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, or stored in any retrieval system of any nature without the written permission of the copyright owner.

This book can be exported from India only by the publisher. Infringement of this condition of sale will lead to civil and criminal prosecution.

Dr Durga Das Basu, *Comparative Constitutional Law, 3rd Edition, 2014*

ISBN: 978-93-5143-142-8

Printed by: Sai Printo Packs Pvt. Ltd., A-102/4, Okhla Industrial Area, Phase-II, New Delhi-110 020

Note: Due care and diligence has been exercised while editing and printing this book. Neither the author nor the publisher of the book holds any responsibility for any mistake that may have inadvertently crept in.

The publisher has taken all care and effort to ensure that the legislative provisions reproduced here are accurate and up to date. However, the publisher takes no responsibility for any inaccuracy or omission contained herein for advice, action or inaction based hereupon. Reference must be made to the Official Gazette issued by the Government of India for the authoritative text of any Act, Rule, Regulation, Notification or Order.

The publisher shall not be liable for any direct, consequential, or incidental damages arising out of the use of this book.

In case of binding mistake, misprints, or missing pages etc., the publisher's entire liability, and your exclusive remedy, is replacement of this book within one month of purchase by similar edition/reprint of the book. Printed and bound in India.

Preface

An incomparable treatise on comparative Constitution for Post-Graduate Degrees in Political Science and Law, for various Universities. Broad perspective and scope of the Comparative Study of Constitutional Law, History of Constitution-Making and its Development in India, Natural Justice, Departures from Foreign Precedents., Bill of Rights, Judicial Decision Violating Due Process, Scope of the Present Work, The Basic Concepts Involved, Incidents and Justiciability of a Written Constitution, Interpretation of the Constitution, Equality and Rule of Law, Final Interpretation of Constitution, Extraneous Evidence: Admissibility of Amendability of the Constitution, The Constitution as Higher Law, The Written Constitution as a Limitation, The Principle against Delegation of Constitutional Powers as a Limitation, Judicial Review, Role of Judiciary and the Doctrine of State Action etc. This edition has incorporated precedents till early 2014 of major Constitutions; updating the book substantially without tinkering with the monumental work of Dr. Basu. Our efforts would have failed but for the able inputs by the Lexis Nexis editorial team and Sri. Arvind Tiwary, Advocate.

G B Patnaik
Yasobant Das
Rita Das

Preface to the Second Edition

Dr D D Basu is not known in legal realms by his name alone but it is because of his maturity of understanding, excellence of elucidation and simplicity of expression which ranks him at the top amongst Indian Authors known, read and acclaimed throughout India and abroad. Amongst many of his outstanding works "Comparative Constitutional Law and Comparative Federalism" have always been recognized as unparalleled and incomparable works with any other book on the subject, much because of the in-depth study of special features and incidents of a Federal Constitution, from the standpoint of comparative law in addition to the exhaustive and analytical study of the theme and thought of Comparative Federalism.

The eloquences of the earlier edition was superb much because of excerpts from Constitutions of almost all the developed and developing countries with cross references of decisions on the intricacies of Comparative Constitutional Law and Comparative Federalism as interpreted by numerous Courts at national and international levels.

The plan of the Series of which this book is presented as the first volume, is unique and unprecedented inasmuch as though there are classical treaties on the Constitutional Law of different countries, such as the U.K. or the U.S.A., there is hardly any treatise (apart from casebooks) which discusses the principles of Constitutional Law on a comparative and global level.

There are also work on Comparative Polities or Comparative Government which deal with the provisions of different Constitutions from the institutional aspect and the working of those provisions from the political standpoint. The present work, on the other hand, is concerned with the *legal* interpretation of the various Constitutions and the universal propositions emerging therefrom. Though professedly a work of research, it does not offer an essay into abstruse philosophy or legal mysticism, divorced from the needs for the daily bread of the practitioner or the law reformer. It deals, critically, with burning topics which currently agitate the public mind, in different lands; for instance, the doctrines of 'basic features', 'political questions', 'separation of powers', 'rule of law', 'prospective overruling', 'due process', rights to human dignity and privacy, constitutionality of capital punishment; and suggests solutions to the problems in the background of the special circumstances of each particular country and its national Constitution which call for variations, if any, in the application of the general principles arrived at on a comparative study.

Since the study proceeds on the basis of the highest juristic principles about which there is a fair consensus amongst Judges and academicians, a particular judicial pronouncement is not taken as the last word on the point it decides, but as a deduction from or illustration of the principles enunciated. Tested on the touchstone of immanent principles, criticism would not be lacking wherever a Court has unfortunately been diverted from those principles by the gust of sentiments, political slogans or the like.

This first Volume has been given the title of the entire Series, because it is designed as an introduction to as well as an epitome of the message of the entire Series. A cursory glance at

Preface to the Second Edition

its pages will show how wide is the sweep of the survey, including the decisions of the highest tribunals, with the relevant constitutional tests, not only of the major countries like the U.K. the U.S.A., Australia, Canada, Eire, Japan, West Germany, India but also so far afield as Malaysia, Ceylon (Sri Lanka), Nigeria, Malta, Trinidad and Tobago, St. Christopher, Nevis and Anguilla, Southern Rhodesia, Jamaica, Bermuda, Leeward Islands.

Though the discussion is primarily concerned with the constitutional law of the countries which have adopted the Anglo-American system, occasional reference has been made, by way of contrast, to the Constitutions of countries like the U.S.S.R., China or France which do not have Judicial Review and cannot, therefore, offer judicial decisions containing legal interpretation of those respective Constitutions.

In view of the encyclopaedic nature of this book it would not be possible to reproduce the relevant texts of the Constitutions dealt with herein. So far as foreign Constitutions are concerned, it would be advisable for the reader to keep on his table a copy of the Author's "Select Constitutions of the World" so that the reader's information might be precise and correct.

With all available resources at our end, expertise acquired and experience earned in the field, we have tried our level best to match more than the expectations of our distinguished readers and research scholars who are always in the quest of the latest.

We are really grateful and truly indebted to our esteemed readers whose urge to delve deeper and deeper in the mines of knowledge, led us to do our level best in the revision of this work. The utility of this work and the purpose of this edition would only be achieved in case this publication is found to be of any help to our esteemed readers and erudite scholars.

16 November, 2007

Editors

Preface to the First Edition

The plan of the Series of which this book is presented as the first volume, is unique and unprecedented inasmuch as though there are classical treaties on the Constitutional Law of different countries, such as the U.K. or the U.S.A., there is hardly any treatise (apart from casebooks) which discusses the principles of Constitutional Law on a comparative and global level.

There are also work on Comparative Politics or Comparative Government which deal with the provisions of different Constitutions from the institutional aspect and the working of those provisions from the political standpoint. The present work, on the other hand, is concerned with the *legal* interpretation of the various Constitutions and the universal propositions emerging therefrom. Though professedly a work of research, it does not offer an essay into abstruse philosophy or legal mysticism, divorced from the needs for the daily bread of the practitioner or the law reformer. It deals, critically, with burning topics which currently agitate the public mind, in different lands; for instance, the doctrines of 'basic features', 'political questions', 'separation of powers', 'rule of law', 'prospective overruling', 'due process', rights to human dignity and privacy, constitutionality of capital punishment; and suggests solutions to the problems in the background of the special circumstances of each particular country and its national Constitution which call for variations, if any, in the application of the general principles arrived at on a comparative study.

Since the study proceeds on the basis of the highest juristic principles about which there is a fair consensus amongst Judges and academicians, a particular judicial pronouncement is not taken as the last word on the point it decides, but as a deduction from or illustration of the principles enunciated. Tested on the touchstone of immanent principles, criticism would not be lacking wherever a Court has unfortunately been diverted from those principles by the gust of sentiments, political slogans or the like.

This first Volume has been given the title of the entire Series, because it is designed as an introduction to as well as an epitome of the message of the entire Series. A cursory glance at its pages will show how wide is the sweep of the survey, including the decisions of the highest tribunals, with the relevant constitutional tests, not only of the major countries like the U.K. the U.S.A., Australia, Canada, Eire, Japan, West Germany, India but also so far afield as Malaysia, Ceylon (Sri Lanka), Nigeria, Malta, Trinidad and Tobago, St. Christopher, Nevis and Anguilla, Southern Rhodesia, Jamaica, Bermuda, Leeward Islands.

Though the discussion is primarily concerned with the constitutional law of the countries which have adopted the Anglo-American system, occasional reference has been made, by way of contrast, to the Constitutions of countries like the U.S.S.R., China or France which do not have Judicial Review and cannot, therefore, offer judicial decisions containing legal interpretation of those respective Constitutions.

Thanks are due to the Banaras Hindu University which offered the opportunity of delivering the nucleus of this Volume as the B.H.U. Honorary Professorship Lectures, 1981. Since

Preface to the First Edition

then the contents have been much enlarged and embellished and the case-law has been updated till the end of 1983.

It is not practicable to reproduce the entire text of the Constitutions referred to in this book. For the text of the major Constitutions (other than India), the reader is advised to keep by his side the Author's *Select Constitutions of the World*, and for the text of the Indian Constitution, he may refer to the Author's *Constitutional Law of India*, which is almost an annual publication and therefore offers an up-to-date text, incorporating the latest amendments, as far as possible.

August 1984
208A, Rash Behari Avenue,
Calcutta-700 029,
India.

The Author

Table of Cases

A

A. K. Kraipak v. Union of India, (1969) 2 SCC 262	33
A.B.S.K. Sangh v. Union of India, AIR 1981 SC 298	184, 189
A.C. Companies v. Sharma, (1965) 1 SCA 723	195
A.D.M. v. Shukla, AIR 1976 SC 1207	340, 342, 346, 347, 348, 349, 353
A.G. Alberta v. A.G. Canada, (1939) AC 117 (PC)	253
A.G. for Alberta v. A.G. for Canada, AIR 1943 PC 76.....	367, 368
A.G. for Australia v. Boilermakers' Soc., (1957) 2 All ER 45	192
A.G. for British Columbia v. A.G. for Canada, (1914) AC 153	432
A.G. for Canada v. A.G. for Ontario, (1898) AC 700	367
A.G. for Canada v. A.G. for Ontario, (1937) AC 326	362
A.G. for Canada v. A.G. for Provinces, (1898) AC 700	432
A.G. for Canada v. Canard, (1975) 52 DLR (3d) 548.....	413
A.G. for N.S.W. v. Trethowan, (1932) AC 526.....	106, 108, 109, 110
A.G. for Ontario v. A.G. for Canada, (1894) AC 189	366, 368, 432
A.G. for Ontario v. A.G. for Canada, (1896) AC 348	38
A.G. for Ontario v. A.G. for Canada, (1912) AC 571	153, 187, 413, 424
A.G. for Ontario v. Canada Temperance Federation, (1946) AC 193	367
A.G. Manitoba v. Manitoba Licence Holders, (1902) AC 73	38
A.G. of Australia v. Boilermakers' Society, (1957) 2 All ER 45 (51) (PC).....	381
A.G. of British Columbia v. A.G. of Canada, (1914) AC 153	432
A.G. of Canada v. A.G. of British Columbia, (1930) AC 111	367
A.G. of Canada v. A.G. of Ontario, AIR 1937 PC 89	39, 367
A.G. of Canada v. Lavell, (1973) 38 DLR (3d) 481 (Can)	413
A.G. of Christopher v. Reynolds, (1979) 3 All ER 129	182
A.G. of Ontario v. A.G. of Canada, (1912) AC 571	161
A.G. of Ontario v. A.G. of Canada, AIR 1947 PC 99	433
A.G. Ontario v. A.G. Canada, (1912) AC 571	166, 432
A.G. Ontario v. Winner, (1954) AC 541 (PC).....	253

A.G. v. Augustus, (1957) AC 436.....	230
A.G. v. Brewery Union, (1908) 6 CLR 469	179
A.G. v. Commonwealth of Australia, (1935) 42 CLR 533	145
A.G. v. Commonwealth, (1945) 71 CLR 237.....	290
A.G. v. Commonwealth, (1945) 71 CLR 37.....	290
A.G. v. Hallet, (1952) AC 427 (433) (PC).....	253
A.G. v. Times Newspaper, (1973) 3 All ER 54.....	8
A.G. v. Trethowan, (1932) AC 526	105
A.G. v. Walker, 3 Ex 242.....	185
A.G. v. Wilts United Dairies, (1921) 37 TLR 884 (CA).....	274
A.K. Roy v. Union of India, AIR 1982 SC 149.....	384
A.K. Roy v. Union of India, AIR 1982 SC 710.....	176, 194, 195
A.P.S.R.T.C. v. I.T.O., AIR 1964 SC 1486.....	40
A.W.I. Theatres v. Municipal Corpn., AIR 1959 SC 586	224
Abbas v. Union of India, AIR 1971 SC 481	18
Abbate v. U.S., (1958) 359 US 187	139
Abbott v. City of St. John, (1908) 40 SCR 597	38
Abdul Hakim v. State of Bihar, AIR 1961 SC 448.....	244
Abdul Kadir v. State of Kerala, AIR 1976 SC 182.....	362
Abdul v. W.B. Legislative Assembly, AIR 1966 Cal 363.....	361
Ableman v. Booth, (1859) 21 How 505	139
Abortion Reform Law Case, (1975) 39 BVerfGE 1.....	291
Achutan v. State of Kerala, AIR 1959 SC 490	333
Adams v. State of Maryland, (1952) 347 US 179	145
Adams v. Texas, (1980) 448 US 38	72, 73
Adegbenro v. Akintola, (1963) 3 All ER 544 (PC).....	22, 25, 26, 148, 253, 254, 160
Adegbenro v. Akintola, (1963) 3 All ER 544.....	343
Adelaide Co. v. Jehovah's Witnesses, (1943) 67 CLR 116	180
AG. of Ontario v. Hamilton Street Ry., (1903) AC 524	432
Agarwal v. Hindusthan Steel, AIR 1970 SC 1150	438, 440
Air India v. Nargis, AIR 1981 SC 1829.....	273, 292
Airlines of N.S.W. v. N.S.W., (1964-65) 113 CLR 54.....	423
Ajay v. Khalid, (1981) 2 SCR 79	352
Ajay v. Khalid, AIR 1981 SC 486	439
Akar v. A.G., (1969) 3 All ER 384	107, 118, 119
Akins v. Texas, (1945) 325 US 398.....	86
Albert v. Strange, (1849) 1 H&T 1	260
Ali Akbar v. U.A.R., AIR 1966 SC 230	239
All India Bank Employees' Assocn. v. National Industrial Tribunal, AIR 1962 SC 171	66, 245
Amalgamated Coalfields v. Janpad Sabha, (1963) Supp 1 SCR 172.....	389
Amalgamated Food Employees v. Logan, (1968) 391 US 308.....	85
Amalgamated Soc. Engineers v. Adelaide Steamship Co., (1920) 20 CLR 129	162
Amalgamated Soc. of Engineers v. Adelaide Steamship Co., (1920) 28 CLR 129	23, 37, 153, 187, 253, 254
Ambika v. State of U.P., AIR 1980 SC 1762	156, 157
American Fed. of Labour v. Swing, (1941) 312 US 321.....	83, 84, 85
Amirabbas v. State of M.B., (1960) 3 SCR 138	87
Amirabbas v. State, AIR 1960 SC 768	440
Amritamay v. State of West Bengal, AIR 1981 SC 679	145
Ananda v. Chief Secy., AIR 1966 SC 657	341
Anandji v. Engineering Mazdoor Sangh, AIR 1975 SC 946	301

Anantha v. State of Madras, AIR 1952 Mad 395	351
Anderson v. Dunn, (1821) 6 Wh 204	50
Andrews v. Howell, (1921) 65 CLR 255	363
Anisminic v. Foreign Compensation Commr., (1969) 1 All ER 208	80
ante; Gupta v. Union of India, AIR 1982 SC 149	171
Anyia vs. University of Oxford, 2001 EWCA Civ 405	35
Apthekar v. Secy. of State, (1964) 378 US 500	267, 268
AR Antulay v RS Nayak & Anr. (1988) 2 SCC 602	93
Archbolds v. Spanglett, (1961) 1 AER 417	185
Argyll v. Argyll, (1967) 1 Ch 302	260
Arizona Public Service v. Snead, (1979) 441 US 141	41
Arjan v. State of Punjab, AIR 1970 SC 703	224
Armah v. Govt. of Ghana, (1966) 3 All ER 177	81
Armstrong v. Budd, (1969) 89 WN (Pt. 2) 241	382
Arndstein v. McCarthy, (1920) 254 US 71	89
Arora v. State of U.P., AIR 1964 SC 1230	185
Asakura v. Seattle, (1924) 265 US 332	238
Ashton v. Cameron County, (1936) 298 US 513	364
Asstt. Commr. v. B.&C. Co., AIR 1970 SC 169	157, 158
Aswini v. Arabinda, AIR 1952 SC 369 (384-85)	256
Atiabari Tea Co. v. State of Assam, AIR 1961 SC 232	16, 17, 42, 375, 425, 427
Australian Apple Board v. Tonking, (1942) 66 CLR 104	414
Automobile Transport v. State of Rajasthan, AIR 1962 SC 1406	16, 42, 427
Avery v. Georgia, (1952) 345 US 637	86
Azam v. E.T.O., (1971) 3 SCC 621	369, 370
B	
B.S.C. v. Granada Television, (1981) 1 All ER 417	260
Babu Singh v. State of U.P., AIR 1976 SC 527	222
Babulal v. State of Bombay, AIR 1960 SC 51	360, 361
Babulal v. State of Maharashtra, AIR 1961 SC 884	14
Bachan Singh v. State of India, AIR 1982 SC 1325	348
Bachan Singh v. State of Punjab, AIR 1980 SC 898	19, 20, 75, 76, 77
Bachan Singh v. State of Punjab, AIR 1982 SC 1325	352
Bachan Singh, AIR 1980 SC 898	19, 20
Bachan v. State of Punjab, AIR 1980 SC 898	227, 238, 277
Bachan v. State of Punjab, AIR 1982 SC 1325	224, 225
Bai Hira v. Official Assignee, AIR 1958 SC 448	151
Bai Tahira v. Ali, (1979) 2 SCC 316	100, 157, 158
Bain Peanut Co. v. Pinson, (1931) 282 US 499	184, 225, 226
Baker v. Carr, (1962) 369 US 186	168, 169, 170, 172, 182, 183, 242, 244, 249
Baker v. Carr, (1962) 369 US 186	408
Baldwin v. Hale, (1850) 68 US 223	32
Ballabhdas v. Chakravarty, AIR 1960 SC 576	252
Ballabhdas v. Municipal Committee, AIR 1970 SC 1002	248
Bank of Toronto v. Lambe, (1887) 12 AC 575	38, 153
Bapakotiah v. Union of India, AIR 1956 SC 232	69
Barber v. Page, (1968) 390 US 719	231
Barenblatt v. U.S., (1959) 360 US 109	50, 51, 52, 53, 54, 385
Barium Chemicals v. Company Law Board, AIR 1967 SC 295	197, 245

Barker v. Wingo, (1972) 407 US 514	280
Baron v. Jennings, (1955) 2 All ER 714	164
Basanta v. Emp., AIR 1944 FC 86	195, 383
Baxter v. Commissioner of Taxation, (1907) 4 CLR 1087	419
Beck v. Alabama, (1980) 44 US 392	72
Beck v. Washington, (1962) 8 L Ed 2d 102	85
Becker v. Home Office, (1972) 2 AER 676	283
Begulla v. State of A.P., (1983) UJSC 1038	297
Bell v. Wolfish, (1979) 441 US 520	242, 243, 279,
.....	280
Bellotti v. Baird (II), (1979) 443 US 622	291
Bengal Immunity Co. v. State of Bihar, (1955) 2 SCR 603	408
Bengal Immunity Co. v. State of Bihar, AIR 1955 SC 661	375, 425
Bennett Coleman v. Union of India, AIR 1973 SC 106	17, 76, 77, 259
Benton v. State of Maryland, (1969) 25 L Ed 2d 707	89
Betts v. Brady, (1942) 316 US 455	19, 269
Bhikraj v. Union of India, AIR 1962 SC 110	164
Bhim v. Union of India, AIR 1981 SC 234	100, 198, 320
Bidi Merchants v. State of Bombay, A, 1962 SC 486	185
Bidi Supply Co. v. Union of India, (1956) SCR 267	334
Bishamber v. State of U.P., AIR 1982 SC 33	333, 386, 387
Bishan Das v. State of Punjab, AIR 1961 SC 1570	333
Black-Clawson v. Papierwerke, (1975) 1 All ER 810 (HL)	252, 256
Board of Education v. Barnette, (1943) 319 US 624	11, 357, 372
Board of Education v. Rice, (1911) AC 179	30
Bohar v. State of Punjab, (1981) Cr LJ 1141	80
Boilermakers Society, ex parte, (1956) 94 CLR 254	37
Boland v. Taoiseach, (1974) IR 338	172
Bombay Labour Union v. International Franchises, AIR 1966 SC 942	273
Boston Sand v. U.S., (1929) 278 US 41	253
Bounds v. Smith, (1977) 430 US 817	282
Br. Ry. Board v. Picklin, (1974) 1 All ER 609 (HL)	358, 359, 377,
.....	378
Braden v. U.S., (1961) 365 US 431	50, 51, 55
Bravery v. Bravery, (1954) 3 All ER 59 (CA)	282
Breard v. Alexandria, (1951) 341 US 622	261
Breithapt v. Abram, (1957) 352 US 432	285
Bribery Commissioner's case, (1964) 2 All ER 785	127
Bribery Commr. v. Ranasinghe, (1964) 2 All ER 785	105
Bribery Commr. v. Ranasinghee, (1965) AC 172	148
Bridges v. California, (1941) 314 US 252	85
Brij Bhushan v. State of Delhi, (1950) SCR 605	259
Brinkerhoff v. Hill, (1930) 281 US 673	372
Brinkerhoff-Fairs Trust v. Hill, (1930) 281 US 673	83, 84, 85
British Rys. v. Harrington, (1972) AC 877	4
Brophy v. A.G. of Manitoba, (1895) AC 201	252, 254
Brophy v. A.G., Manitoba, (1895) AC 202	186
Brophy v. Manitoba, (1895) AC 202	343
Brown v. Mississippi, (1936) 297 US 278	91, 285
Brown v. Topeka, (1954) 347 US 483	273
Brownridge v. R., (1972) SCR 926 (Can.)	285
Buchanan v. Babco Forwarding Co., (1978) AC 141	225
Buchanan v. Babco, (1978) AC 141	237, 238
Buck v. Bell, (1927) 274 US 200	269
Buckley v. A.G., (1950) IR 67	159, 193

Buckley v. A.G., (1950) Ir R 67 (81).....	382, 411
Buckley v. Valeo, (1976) 424 US 1.....	383
Budhan v. State of Bihar, AIR 1955 SC 191.....	77, 80, 86, 87, 88
Bullington v. Missouri, (1981) 451 US 430.....	72
Burmah Oil Co. v. Lord Advocate, (1964) 2 All ER 348.....	329
Burnet v. Coronado Oil Co., (1932) 285 US 393.....	229
Burrows v. Jackson, (1953) 346 US 249.....	85
Burton v. Wilmington Parking Authority, (1961) 365 US 715.....	438
Bush v. Orleans Board, (1960) 364 US 500.....	242

C

C & S. Airlines v. W.S. Corp., (1948) 333 US 103.....	176
Calcutta Gas Co. v. State of W.B., AIR 1962 SC 1044.....	305, 390
Calder v. Bull, (1789) 3 Dall 386.....	10, 191
California v. S. Pacific Co., (1895) 157 US 229.....	428
Callco Dealings v. I.R.C., (1961) 1 All ER 762.....	238
Canadian Pacific Wine Co. v. Tuley, (1921) 2 AC 417.....	368
Cantwell v. Connecticut, (1940) 310 US 296.....	85
Carter v. Carter Coal Co. (1936) 298 US 238.....	129, 152, 225, 227, 324, 364, 420
Case v. Bowles, (1946) 327 US 92.....	139
Catherine v. Edison Co., (1974) 419 US 345.....	438
Central Control Board v. Cannon Brewery, (1919) AC 744.....	305
Cf. A.G. v. Trethowan, (1932) AC 526 (PC).....	119
Cf. Ballarpur Collieries v. C.G.I.T., Dhanbad, AIR 1972 SC 1216.....	66
Cf. Barenblatt v. U.S., (1959) 360 US 109.....	54
Cf. Barium Chemicals v. Company Law Board, AIR 1967 SC 295.....	174
Cf. Breithaupt v. Abram, (1957) 352 US 432.....	227
Cf. Bribery Commr. v. Ranasinghe, (1964) 2 All ER 785.....	121, 132
Cf. Bribery Commr. v. Ranasinghe, (1965) AC 172.....	146
Cf. Dworkadas v. Sholapur Spinning Co., (1954) SCR 674.....	156
Cf. Grey v. Pearson, (1857) 6 HLC 61.....	230
Cf. Hawke v. Smith, (1920) 253 US 221.....	106, 108, 109
Cf. Henry v. Mississippi, (1965) 379 US 443.....	83
Cf. Jaynarayan v. State of W.B., AIR 1970 SC 675.....	166
Cf. Johnson v. Zerbst, (1938) 304 US 458.....	91
Cf. Joint Anti-Fascist Committee v. McGrath, (1951) 341 US 123.....	19
Cf. Kesavananda v. State of Kerala, AIR 1973 SC 1461.....	180
Cf. Kesavananda, AIR 1973 SC 1461.....	207
Cf. Khare v. State of Delhi, (1950) SCR 519.....	19
Cf. Liyanage v. R., (1967) AC, 259.....	230
Cf. Magor & St. Mellons R.D.C. v. Newport Corpn., (1951) 2 All ER 839.....	230
Cf. Magor v. Newport Corpn., (1951) 2 All ER 939.....	227
Cf. Marbury v. Madison, (1803) 1 Cr 137.....	142
Cf. Marshall v. Gordon, (1917) 243 US 521.....	55
Cf. Massachusetts v. Mellon, (1923) 262 US 447.....	142
Cf. McCulloch v. Maryland, (1819) 4 Wh 316.....	37
Cf. Minerva Mills v. Union of India, AIR 1980 SC 1789.....	156, 157, 159
Cf. Mumbai Kamgar Sabha v. Abdulbhai, AIR 1976 SC 1455.....	168
Cf. N.Y. v. U.S., (1946) 326 US 572.....	229
Cf. Nakamura v. Japan, (1962).....	153
Cf. Ningkan v. Govt. of Malaysia, (1970) AC 379 PC.....	148
Cf. Parashram v. Ram, AIR 1982 SC 872.....	176

Cf. Rao v. Indira, AIR 1971 SC 1002	146
Cf. Roberts v. Russell, (1968) 392 US 293.....	231
Cf. Rogers v. Richmond, (1961) 365 US 534.....	90
Cf. Shalini v. Union of India, AIR 1981 SC 431.....	231
Cf. State of Kerala v. Thomas, AIR 1976 SC 490.....	221
Cf. State of W.B. v. Union of India, AIR 1963 SC 1241	39, 40, 41, 42
Cf. Sundararamier v. State of A.P., AIR 1958 SC 68.....	39
Cf. Sunil Batra (I), AIR 1978 SC 1675.....	222
Cf. Swadeshi Industries v. Workmen, AIR 1960 SC 1258	66
Cf. U.S. v. Ballin, (1892) 144 US 1	55
Cf. Ujjam Bai v. State of U.P., (1963) 1 SCR 778	90
Cf. Ulster-Swift v. T.M.H., (1977) 1 Lloyd's Rep. 346	226
Cf. Veena v. State of Bihar, AIR 1983 SC 339	280
Cf. Wilkinson v. U.S., (1961) 365 US 399.....	55
Cf. Younger v. Harris, (1971) 401 US 37.....	54
Chanay v. State of Haryana, AIR 1975 SC P & H 102	303
Chandra Bhawan v. State of Mysore, AIR 1970 SC 2042	167
Chandra Mohan v. State of U.P., AIR 1966 SC 1987	196, 230, 256
Chandra v. State of U.P., AIR 1966 SC 1987	195
Charan v. Sanjeeva, AIR 1978 SC 499	209, 211
Cherokee v. Georgia, (1831) 6 Wall 50.....	176, 383
Cherokee v. S.K. Ry., (1889) 135 US 641.....	40
Chhindwara v. C.P.S. Ltd., (1970) 1 SCC 509.....	389
Chicago Air Lines v. Waterman Corpn., (1948) 333 US 103	390
Chicago Airlines v. Waterman Steamship, (1947) 333 US 103.....	380
Chief Commr. v. D.C.M., AIR 1978 SC 1181.....	408
Chief Justice v. Dikshitalu, (1979) 2 SCC 34.....	100, 157, 158, 159, 197
Chief Justice v. Dikshitalu, AIR 1979 SC 193	178
Chimel v. California, (1969) 395 US 752.....	231
Chiranjit Lal v. Union of India, (1950) SCR 869	17
Chiranjit Lal v. Union of India, AIR 1951 SC 41.....	180
Chittaranjan v. State, AIR 1974 SC 2352	292
Chokoling v. A.G. of Trinidad, (1981) 1 All ER 244.....	80, 82, 83
Citizen's Insurance Co. v. Parsons, (1881) 7 App Cas 96.....	366
Citizen's Loan Assocn. Topeka, (1874) 20 Wall 655	357
Citizens' Savings & Loan Assocn. v. Topeka, (1874) 20 Wall 655	11
City of Burbank v. Lockhead, (1973) 411 US 624.....	362, 365
City of Montreal v. Montreal Street Ry., (1912) AC 333	362, 365
Civil Rights Cases, (1883) 109 US 3 (11).....	438
Clallam v. U.S., (1923) 263 US 341	39
Clayton v. Heffron, (1960) 105 CLR 214.....	360
Cohens v. Virginia, (1821) 6 Wh 264.....	184, 242
Coker v. Georgia, (1977) 433 US 584	72, 73
Colegrove v. Green, (1946) 328 US 549	168
Coleman v. Thompson, 501 U.S. 722.....	83
Collector of Customs v. Sampathu, AIR 1962 SC 316	18
Collymore v. A.G. of Trinidad & Tobago, (1969) 2 All ER 1207 (PC).....	60, 62, 63
Collymore v. A.G., (1969) 2 All ER 1207.....	81
Colonial Sugar Refining v. A.G., (1913) 17 CLR 644.....	153
Colorado v. Symes, 286 US 510.....	364
Commentary on the Constitution of India. Maneka Gandhi v. Union of India, AIR 1978 SC 598	34
Commercial Cable Co. v. Govt. of Newfoundland, (1916) 2 AC 610.....	162
Commr. v. Acker, (1959) 361 US 127	253

Congreve v. Home Office, (1976) 1 AER 697	274
Conway v. Rimmer, (1968) AC 910	4
Coombes v. Getz, (1932) 285 US 434	390
Coomes v. Shields, (1978) IRLR 263	7
Cooper v. Aaron, (1958) 358 US 1	242
Cooper v. Aaron, (1958) 358 US 5	408
Cooper v. Union of India, (1970) 1 SCC 248	229, 249
Cooper v. Union of India, (1970) 3 SC 564	357
Cooper v. Union of India, AIR 1970 SC 564	19, 76, 176, 177, 302, 331, 369, 370
Co-operative Committee on Japanese Canadians v. A.G. for Canada, (1947) AC 87	367
Cormack v. Cope, (1974) ALJR 319	359, 360
Cossel v. Texas, (1950) 339 US 282	86
Cummings v. Missouri, (1867) 4 Wall 277	10
Curr v. R., (1972) SCR 889 (Can.)	285, 290
Curr v. R., (1972) SCR	223

D

D. K. Basu v. State of West Bengal, (1997) 1 SCC 416	280
D. v. N.S.P.C.C., (1978) AC 171 (HL)	260
D.C.G.M. v. Union of India, AIR 1983 SC 937	244
D'Emden v. Pedder, (1904) 1 CLR 91	139
Dalia v. U.S., (1979) 441 US 238 (248, 254)	287
Dattatraya v. State of Bombay, AIR 1952 SC 181	165, 166
Davis v. Johnson, (1978) 1 All ER 1132 (HL)	252, 256
Davis v. Passman, (1979) 442 US 228	170
Day-Brite Lighting v. Missouri, (1952) 342 US 421	183
Dayle v. Flaconer, (1866) 4 Moo PC 203	55
De Stefano v. Woods, (1968) 392 US 631	231
Deaton v. A.G., (1963) IR 170	382
Deena v. Union of India, (1983) Cr LJ 1602 (SC)	78, 79
Deena v. Union of India, (1983) Cr LJ 1602 SC	93
Deep Chand v. State of A.P., AIR 1959 SC 648	158, 362
Deere Plow Co. v. Wharton, AIR 1914 PC 174	366
Delaware v. Prouse, (1979) 440 US 648 (653-55)	287
Denver v. New York Trust Co., 229 US 123	316
Deputy Collector v. Ibrahim, AIR 1970 SC 1275	408
Desist v. U.S., (1969) 394 US 244	231
Devendra v. State, AIR 1983 MP 172	167
Devilal v. S.T.O., AIR 1965 SC 1150	410
Diamond Sugar Mills v. State of U.P., AIR 1961 SC 652	369, 370
Dickenson v. Fletcher, (1873) LR 9 CP 1	224
Dickson v. Pape, 7 Ir LR 123	185
Dir. of Rationing v. Corpn. of Calcutta, (1961) 1 SCR 158	342
Dodge v. Woolsey,	129
Doe v. Braden, (1853) 16 How 635	238
Doe v. McMillan, (1973) 412 US 306	170
Dorchy v. Kansas, (1924) 264 US 286	65
Dorsey v. Stuyvesant Corp., (1950) 339 US 981	438
Douglas v. California, (1963) 372 US 353	282
Downs v. Birmingham, 240 Ala. 177	317
Dred Scott v. Sanford, (1857) 29	107
Duff Development v. Govt. of Kelantan, (1924) AC 797	172

Dunlop Co. v. Dunlop, (1921) 1 AC 367 (HL).....	260
Duparguet v. Evans, (1935) 80 L Ed 591	301
Durgadas v. Union of India, AIR 1966 SC 1978.....	341
Dwarkadas v. Sholapur Spinning & Weaving Co., (1954) SCR 674.....	14
Dy. Commr. v. Durganath, AIR 1968 SC 394.....	390

E

E.g., Quinn's Supermarket v. A.G., (1972)	159
E.g., Saia v. N.Y., (1948) 334 US 558.....	67
Eastern Trust Co. v. McKenzie & Co., (1915) AC 750.....	379, 382
Eastland v. U.S. Servicemen's Fund, (1975) 421 US 491	170
Edinburgh Ry. v. Wanchop, (1842) 8 Cl & F 710.....	358
Educational Films Corp. v. Ward, (1931) 282 US 379	365
Edward Mills v. State of Ajmer, (1955) 1 SCR 735.....	209
Edwards v. A.G. Canada, (1930) AC 124.....	153
Edwards v. A.G. for Canada, (1930) AC 124	180, 181, 376
Edwards v. A.G., (1930) AC 124 (PC)	253
Edwards v. Lesseur, (1896) 33 Southwestern Rep. 1120.....	317
Eisenstadt v. Baird, (1972) 405 US 438.....	261, 291
Ellen St. Estates v. Min. of Health, (1934) 1 KB 595 (596) (CA)	406
Emspak v. U.S., (1955) 349 US 190.....	52, 53
Enomoto v. Wright, (1978) 434 US 1052.....	283
Esmail v. Competent Officer, AIR 1967 SC 1244	440
Essentials of Government (1958).....	315
Esso Petroleum v. Kingswood Motors, (1973) 3 All ER 1057	7
Estelle v. Gamble, (1976) 429 US 97	268, 277, 279
Estes v. Texas, (1965) 381 US 532.....	83
Ethnic Affairs v. Tech, 128 ALR 535	176, 184, 234,
.....	249, 250
Evans v. Newton, (1966) 382 US 296	438
Ex parte Baid, (1890) 135 US 403.....	172
Ex parte Hull, (1941) 312 US 546	282
Ex parte Virginia, (1880) 100 US 339	86, 139, 372
Ex parte Wo Jan, 228 F 927	316
Excel Wear v. Union of India, AIR 1979 SC 25	208
Express Newspapers v. Union of India, AIR 1958 SC 578	14, 15, 17,
.....	221, 259

F

F.T.C. v. Cement Institute, (1948) 333 US 683.....	385
Fagu v. State of W.B., AIR 1974 SC 613	256
Fairfax v. Commr. of Taxation, (1965) 114 CLR 1 (7).....	423
Farey v. Burdett, (1916) 21 CLR 432	363
Fatechand v. State of Maharashtra, AIR 1978 SC 1825.....	32
Fay v. N.Y., (1947) 332 US 261	86
Fay v. Noia, (1963) 372 US 391	83
Fay v. Noia, 372 U.S. 391, 438	285
Fay v. Nola, (1963) 372 US 391	231
Fed. Commr. v. Munro, (1931) 38 CLR 153	389
Fed., Power Commr. v. Pacific Power Co., (1939) 307 US 156.....	383
Federated Saw Mill v. James Moore, (1909) 8 CLR 465.....	365
Fenton v. Hampton, (1958) 11 Moo PC 347	185
Ferguson v. Skrupa, (1963) 372 US 726.....	183, 184
Fischer v. Secy. of State, (1808) 22 Mad 270 (PC).....	379, 382

Fisher v. Irish Land Commission, (1948) Ir. R 3.....	194
Fleming v. Fleming, (1924) 264 US 29.....	231
Fleming v. Rhodes, (1947) 331 US 100.....	390
Flemming v. Nestormax, (1960) 363 US 603.....	279
Flint v. Stone Tracy Co., (1911) 220 US 107.....	360
Foley v. Irish Land Commn., (1952) Ir. R 118.....	194
Forbes v. A.G. Manitoba, (1937) AC 260.....	38
Forbes v. A.G., (1937) AC 260.....	362, 365
Francis v. Chief of Police, (1973) 2 All ER 251 (PC).....	60, 66, 67, 68, 81
Francis v. Union Territory, AIR 1981 SC 746.....	237
Frontiero v. Richardson, (1973) 411 US 370.....	273
Fry v. U.S., (1975) 421 US 542.....	422
Fry. v. U.S., 421 US 542.....	365
Fuentes v. Shevin, (1972) 407 US 67.....	32
Fundamental Concepts of Public Law.....	312
Furman v. Georgia, (1972) 39 L Ed 2d 346.....	228
Furman v. Georgia, (1972) 408 US 238.....	72, 73, 74, 275, 278
Furman v. Georgia, (1972) 408 US 288.....	269
Furman v. Georgia, (1972) 428 US 258.....	70, 71
G	
G.W. Saddlery Co. v. The King, (1921) AC 91.....	368
Gajapati v. State of Orissa, (1954) SCR 1.....	176, 177
Galpin v. Page, (1873) 18 Wall 350.....	90
Ganga Sugar Corpn. v. State of U.P., AIR 1980 SC 286.....	246, 248
Garcia v. San Antonio Metro. Transit Auth., 469 U.S. 528.....	139, 365, 422
Gardner v. Florida, (1977) 430 US 349.....	73
Garewal v. State of Punjab, AIR 1959 SC 512.....	209, 386, 387
Garg v. Union of India, AIR 1981 SC 2138.....	244
Garrity v. N.J., (1967) 385 US 493.....	285
Geelong Trust Commrs. v. Gibbs, (1974) 48 ALJR 1 (4) PC.....	230
Ghosh v. Joseph, AIR 1963 SC 812.....	14, 245
Ghouse v. State of Kerala, AIR 1980 SC 271.....	371
Ghulam v. State of Rajasthan, AIR 1963 SC 479.....	331
Ghulam v. Union of India, AIR 1967 SC 1335.....	351
Gibbons v. Ogden, (1942) 9 Wh 195.....	363
Gibson v. Florida L.I.C., (1963) 372 US 539.....	52, 53
Gideon v. Wainwright, (1963) 372 US 335.....	282
Gideon v. Wainwright, 372 U.S. 335, 350.....	269
Gilbert v. California, (1967) 388 US 263.....	285
Ginsberg v. N.Y., (1968) 390 US 629.....	291
Glidden v. Zdanok, (1962) 370 US 530.....	384
Godfrey v. Georgia, (1980) 446 US 420.....	72
Gohar v. Suggi, AIR 1960 SC 93.....	440
Golak Nath v. State of Punjab, (1967) 2 SCR 762.....	42, 319
Golak Nath v. State of Punjab, AIR 1967 SC 1463.....	231
Golak Nath v. State of Punjab, AIR 1967 SC 1641.....	
Golak Nath v. State of Punjab, AIR 1967 SC 1643.....	110, 111, 115, 117, 119, 125, 127, 203, 221, 302, 311, 321
Golak Nath, (1967) 2 SCR 762.....	121
Golak Nath, AIR 1967 SC 1641.....	120