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The essential legislative functions consist in making a law. It is to the legislature to formulate the legislative policy and delegate the formulation of details in implementing that policy.

Discretion as to the formulation of the legislative policy is prerogative and function of the legislature and it cannot be delegated to the Executive.

Discretion to make notifications and alterations in an Act while extending it and to effect amendments or repeals in the existing laws is subject to the condition precedent that essential legislative functions cannot be delegated.

The question as to the margin of discretion exercisable by the delegated authority cannot be precisely defined and each case has to be considered in its setting.

The growing tendency to entrust the Executive with wide powers is dangerous and likely to result in the negation of the democratic principles.

In order to avoid the dangers, the scope of delegation is strictly circumscribed by the Legislature by providing for adequate safeguards, controls and appeals against the executive orders and decisions. The power delegated to the Executive to modify any provisions of an Act by an order must be within the framework of the Act giving such power.

The power to make such a modification, no doubt, implies certain amount of discretion but it is a power to be exercised in aid of the legislative policy of the Act and cannot- (i) Travel beyond it, or (ii) Run counter to it, or (iii)

Certainly change the essential features, the identity, structure or the policy of the Act. A provision in a statute which gives an express power to the Executive to amend or repeal any existing law is described in England as Henry

VIII Clause because the King came to exercise power to repeal Parliamentary laws. The said clause has fallen into disuse in England, but in India some traces of it are found here and there, for example, Article 372 of the Constitution authorizes the President of India to adapt pro Constitutional laws, and if necessary, to make such adaptations and modifications, (whether by way of repeal or amendment) so as to bring them in accord with the provisions of the Constitution. The State Reorganization Act, 1956 and some other Acts similar thereto also contain such a provision. So long as the modification of a provision of a statute by the Executive is innocuous and immaterial and does not affect any essential change in the matter.