

REPORT OF THE COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FORTY-SECOND REPORT



LOK SABHA SECRETARIAT

NEW DELHI

December, 1955

0.22

**MEMBERS OF THE COMMITTEE ON PRIVATE MEMBERS' BILLS
AND RESOLUTIONS**

1. Shri M. Ananthasayanam Ayyangar—*Chairman.*
2. Shri P. Natesan.
3. Shri Raghunath Singh.
4. Shri Nageshwar Prasad Sinha.
5. Shri Ganesh Sadashiv Altekar.
6. Shri Goswamiraja Sahdeo Bharati.
7. Shri Narendra P. Nathwani.
8. Shri Radheshyam Ram Kumar Morarka.
9. Shrimati Ila Palchoudhuri.
10. Shri N. Rachiah.
11. Dr. Natabar Pandey.
12. Shri Bhawani Singh.
13. Shri T. B. Vittal Rao.
14. Shri C. Madhao Reddi.
15. Shri N. Sreekantan Nair.

SECRETARIAT

Shri N. C. Nandi—*Deputy Secretary.*

CONTENTS

	PAGES
Report	1—2
Appendix I [The Constitution (Amendment) Bill, 1955, by Shri Kamal Kumar Basu, M.P.]	3 - 7
Appendix II (Proceedings of Lok Sabha re. adoption of the Report)	8

I, the Chairman of the Committee on Private Members' Bills and Resolutions, having been authorised by the Committee, present on their behalf this their Forty-second Report.

2. The Committee met on the 12th December, 1955 to examine, under Rule 44(1)(a) of the Rules of Procedure, the Constitution (Amendment) Bill (*Vide Appendix*) given notice of for introduction by Shri Kamal Kumar Basu and to consider a letter from Shri Raghunath Singh requesting that his Bill (*Viz. The Sri Kashi Vishwanath Mandir Bill*) might be upgraded from category 'B' to category 'A'.

II

Constitution (Amendment) Bill

3. The Member who gave notice of the Bill and the representatives of the Ministries of Law and Home Affairs, which were concerned with the Bill were, on invitation, present at the sitting and stated their views on the Bill.

4. The Committee considered the points of view of the sponsor of the Bill and reaction of the Government thereto and examined the Bill in the light of the principles laid down by the Committee in paragraph 6 of their First Report, which had been duly approved by the House. The Committee arrived at the following findings as a result of their examination of the Bill.

Findings of the Committee

5. The Bill seeks to amend Articles 22 and 37 of the Constitution relating to preventive detention and Directive Principles of State Policy respectively.

6. *Article 22.* The purpose of the proposed amendment to Article 22 is to restrict the application of the provisions only to those persons who act against the State as agents of a foreign power or enemy or institution.

7. It was pointed out that under entry 9 of List No. 1 in the Seventh Schedule of the Constitution Parliament is vested with power to make laws relating to preventive detention under certain circumstances. The Committee consider that if Article 22 guaranteeing the fundamental rights is abrogated in the manner sought for in the Bill, the safety provisions contained in clauses (4), (5), (6) and (7) of this Article will be denied to a citizen who on suspicion, that he is a foreign agent, may be arrested and detained.

8. The Committee was of the opinion that as the working of the Preventive Detention Act would be reviewed during the next session when it will come up for discussion before the House, there was no urgency for this Bill which was premature.

9. Article 37. The proposed Bill also seeks to amend Article 37 of the Constitution so as to make the Directive Principles of State Policy, contained in Part IV of the Constitution justiciable. The Committee consider that the various items that are contained in this part can not be legally enforced in any court of law.

10. The Committee accordingly recommend that the Bill may not be allowed to be introduced.

III

Reclassification of Bills

11. The Committee also considered a letter from Shri Raghunath Singh requesting that the categorisation of his Bill *viz.* the Sri Kashi Vishwanath Mandir Bill, might be changed from category 'B' to category 'A'. The Bill had been placed in category 'B' by the Committee in their Eighth Report.

After hearing the points urged by the Member-in-charge of the Bill the Committee agreed that the Bill might be placed in category 'A'.

IV

Recommendations

The Committee recommend —

(1) that the Constitution (Amendment) Bill by Shri Kamal Kumar Basu be not allowed to be introduced, and

(2) that the original classification of Sri Kashi Vishwanath Mandir Bill by Shri Raghunath Singh be changed from category 'B' to category 'A'.

M. ANANTHASAYANAM AYYANGAR.

NEW DELHI,

The 14th December, 1955.

APPENDIX I

Bill No. 76 of 1955

THE CONSTITUTION (AMENDMENT) BILL, 1955 (TO BE INTRODUCED IN LOK SABHA)

A BILL

further to amend the Constitution of India.

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Bill, Short title. 19.

5 2. In article 22 of the Constitution,—

(i) for sub-clause (b) of clause (3) the following shall be of Article 10 substituted, namely:—

“(b) to any person who is arrested or detained as an enemy agent or for working as an agent of a foreign Government or institution against the defence and security of the State as prescribed by law made by Parliament”; and

(ii) Clauses (4), (5), (6) and (7) shall be omitted.

15 3. For Article 37 of the Constitution, the following article shall be substituted, namely:—

“37. The provisions contained in this Part shall be the guiding principles in making laws by the State and such provisions shall be enforceable by any court.”

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend Articles 22 and 37 of the Constitution.

When the Constitution was adopted special provisions were made therein for arresting and detaining without trial those who were considered to be acting against the security of the State. This provision was too widely interpreted. Since the condition has now changed, it is proper to restrict the application of these provisions only to those persons who act against the State as an agent or accomplice of a foreign power or enemy.

The people have a right to enjoy the fruits of freedom and see that the objective of welfare state is made a reality. In order to ensure that, Part IV of the Constitution which deals with the directive principles of the State Policy should be made justiciable.

Hence this Bill.

KAMAL KUMAR BASU.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

Protection
against arrest
and deten-
tion in
certain cases.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

- (a) to any person who for the time being is an enemy alien; or
- (b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

- (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

- (b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

- (a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);
- (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
- (c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

* * * * *

Application
of the
principles
contained in
this Part.

37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

* * * * *

LOK SABHA

**A
BILL**

further to amend the Constitution of India

(Shri Kamal Kumar Basu, M. P.)

APPENDIX II

Motion re: Adoption of the Forty-second Report of Committee on Private Members' Bills and Resolutions.

The following motion was moved by Shri Ganesh Sadashiv Altekar:—

“That this House agrees with the Forty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 15th December, 1955.”

The motion was adopted by the House on the 16th December, 1955 in the following amended form:—

“That this House agrees with the Forty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 15th December, 1955, subject to the modification that it be referred back to the said Committee with instructions to reconsider its recommendation in respect of the Constitution (Amendment) Bill by Shri Kamal Kumar Basu.”

[L.S. Deb. dated 16th December, 1955.]