

REPORTS OF THE COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SIXTH SESSION—SECOND LOK SABHA

Thirty Second Report



LOK SABHA SECRETARIAT

NEW DELHI

December, 1958

Price 50 nP.

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

**THIRTY-SECOND REPORT
(SECOND LOK SABHA)**

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

2. The Committee met on the 8th December, 1958 for—

- (1) Classification and allocation of time for discussion of the Bills (*vide Appendix I*) under Rule 294(1)(b) and 294(1)(c) of the Rules of Procedure respectively.
- (2) Examination of the following Bills, under Rule 294(1)(a) of the Rules of Procedure seeking to amend the Constitution:—
 - (1) The Constitution (Amendment) Bill (*Amendment of the preamble and substitution of Article 38*) by Shri Rajendra Singh (*vide Appendix II*).
 - (2) The Constitution (Amendment) Bill (*Amendment of Articles 136, 226, 227, 228 and 329*) by Shri Shree Narayan Das (*vide Appendix III*).
 - (3) The Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri Atal Bihari Vajpayee (*vide Appendix IV*).

II. Classification of and allocation of time to Bills

3. The Members in charge of the Bills due for classification and allocation of time and the representatives of the Ministries concerned had been invited to present their views on these Bills before the Committee. The representatives of the Ministries of Law, Commerce and Industry, Labour and Employment and Department of Parliamentary Affairs were present at the sitting. Amongst the members in charge of the Bills, Shri A. M. Tariq attended the sitting.

4. After hearing the views of the representatives of the Ministries and the member in charge and considering all aspects of the Bills, the Committee placed all the Bills under category B and allotted time for each Bill as shown in the Appendix I.

III. Examination of the Constitution (Amendment) Bills

5. The members who had given notice of the Bills and the representatives of the Ministries concerned with the Bills, had been invited to be present at the sitting. Sarvashri Rajendra Singh and Shree Narayan Das attended the sitting. The representatives of the Ministries of Home Affairs and Law were present.

6. The Committee considered the points urged by the sponsors of the Bills and the reactions of the Government thereto and examined the Bills in the light of the principles laid down in paragraph 6 of the First Report of the Committee on Private Members' Bills and Resolutions of the First Lok Sabha which had been duly approved by the House. The Committee arrived at the following findings as a result of their examination of the Bills.

IV. Findings of the Committee

(a) The Constitution (Amendment) Bill (*Amendment of the preamble and substitution of article 38*) by Shri Rajendra Singh.

7. This Bill sought to amend the Constitution so as to incorporate therein the objective of a socialist pattern of society as being the acknowledged goal of India's economic policy.

8. The Committee recommends that the Bill be allowed to be introduced.

(b) The Constitution (Amendment) Bill (*Amendment of Articles 136, 226, 227, 228 and 329*) by Shri Shree Narayan Das.

9. The Bill sought to exclude the jurisdiction of High Courts and the Supreme Court in election disputes save as provided for by or under any law made by the Appropriate legislature.

10. As the Bill raises an important issue of public interest, the Committee recommend that it be allowed to be introduced.

(c) The Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri Atal Bihari Vajpayee.

11. The Bill sought to include Sindhi in the List of languages given in the Eighth Schedule to the Constitution of India.

12. As the opinion of the House on the matter in the first instance could be tested by a Resolution (and the member had an admitted Resolution in his name) the Committee recommend that the Bill be not allowed to be introduced.

V. Recommendations

13. The Committee recommend—

- (i) that the classification and allocation of time to Bills by the Committee as shown in Appendix I be agreed to by the House;
- (ii) that the Constitution (Amendment) Bill (*Amendment of the preamble and substitution of article 38*) by Shri Rajendra Singh be allowed to be introduced;
- (iii) that the Constitution (Amendment) Bill (*Amendment of Articles 136, 226, 227, 228 and 329*) by Shri Shree Narayan Das be allowed to be introduced;
- (iv) that the Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri Atal Bihari Vajpayee be not allowed to be introduced.

NEW DELHI;

AMAR SINGH SAIGAL.

The 9th December, 1958.

APPENDIX I

Sl. No.	Name of the Bill and the Member in-charge	Bill No.	Category assigned	Time allotted by the Committee	Remarks
1	The Code of Civil Procedure (Amendment) Bill (<i>Amendment of section 100</i>) by Shri Venketrao Srinivasrao Naldurgker.	95 of 1958	B	1 hour	
2	The Hindu Adoptions and Maintenance (Amendment) Bill (<i>Amendment of section 18</i>) by Shri N.M. Wadiwa.	98 of 1958	B	1½ hours	
3	The Representation of the People (Amendment) Bill (<i>Amendment of section 7</i>) by Shri Surendra Mahanty.	103 of 1958	B	1 hour	
✓	The Shopkeepers (Fixation of Price Labels) Bill by Shri A.M. Tariq.	110 of 1958	B	2½ hours	
✓	The Factories (Amendment) Bill (<i>Amendment of sections 45 and 47 and insertion of new sections 47A, 47B and 47C</i>) by Shri Ram Krishan.	121 of 1958	B	2 hours	
6	The Representation of the People (Amendment) Bill (<i>Amendment of sections 30, 78, 85, etc.</i>) by Shri Ram Krishan.	115 of 1958	B	1 hour	
7	The Indian Trade Unions (Amendment) Bill (<i>Amendment of section 8</i>) by Shri Ram Krishan.	112 of 1958	B	2 hours	
8	The Salaries and Allowances of Members of Parliament (Amendment) Bill (<i>Amendment of section 8</i>) by Shri Ram Krishan.	119 of 1958	B	1 hour	
9	The Managing Council Bill by Shri Ram Krishan.	118 of 1958	B	1 hour	
10	The Companies (Amendment) Bill (<i>Insertion of new sections 43A and 250A and Amendment of sections 224, 237, etc.</i>) by Shri Ram Krishan.	114 of 1958	B	1½ hours	

Bill No. 101 of 1958

THE CONSTITUTION (AMENDMENT) BILL, 1958

By

SHRI RAJENDRA SINGH, M.P.

(TO BE INTRODUCED IN LOK SABHA)

THE CONSTITUTION (AMENDMENT) BILL, 1958

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 19^{Short title and commencement.}

(2) It shall come into force at once.

2. In the Preamble after the word 'SOVEREIGN' the ^{Amendment of the} word 'SOCIALIST' shall be inserted. ^{Preamble.}

3. For article 38, the following article shall be substituted: ^{Substitution of article 38.}

"38. The primary function of the State shall be to promote the welfare of the people by securing and protecting effectively a co-operative endeavour of socialist order of society, based upon rapidly expanding industrialisation in conformity with advancing science and technology in which justice, social, economic and political, shall inform all the institutions of the national life."

STATEMENT OF OBJECTS AND REASONS

The First Five Year Plan laid the foundation for achieving a socialist pattern of society. The Second Plan has also laid emphasis on the same objective.

Thus the objective of a socialist pattern of society is now the acknowledged goal of India's economic policy.

It is therefore imperative that this objective should find clear mention in our Constitution.

Hence this Bill.

NEW DELHI;

RAJENDRA SINGH.

The 25th August, 1958.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

* * * * *

38. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. State to secure a social order for the promotion of welfare of the people.

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LOK SABHA

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further to amend the Constitution of India.

(*Shri Rajendra Singh, M. P.*)

Bill No. III of 1958

THE CONSTITUTION (AMENDMENT) BILL, 1958

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SHRI SHREE NARAYAN DAS, M. P.

(TO BE INTRODUCED IN LOK SABHA)

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THE CONSTITUTION (AMENDMENT) BILL, 1958

(TO BE INTRODUCED IN LOK SABHA)

A
BILL

further to amend the Constitution of India.

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

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

(2) It shall come into force at once.

Amendment of article 136. 2. In article 136 of the Constitution, after clause (2) the following clause shall be inserted, namely:—

“(3) Nothing in clause (1) shall apply to any judgement, decree, determination or order passed or made by any court or tribunal constituted by or under any law relating to election to either House of Parliament or to the House or either House of the Legislature of a State save as provided for by or under any law made by the appropriate Legislature in this respect.”

Amendment of article 226. 3. In article 226 of the Constitution, after clause (2) the following clause shall be inserted, namely:—

“(3) Nothing in this article shall be deemed to confer on a High Court powers to issue to any authority as may be provided under sub-clause (b) of article 329 any directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* or any of them for the enforcement of any rights other than the rights conferred by Part III save as provided for by or under any law made by the appropriate Legislature in this respect.”

Amendment of article 227. 4. In article 227 of the Constitution, after clause (4) the following clause shall be inserted, namely:—

“(5) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any

law relating to election to either House of Parliament or to the House or either House of Legislature of a State save as provided for by or under any law made by the appropriate Legislature in this respect."

5. In article 228 the following proviso shall be added, Amendment of article 228. namely:—

"Provided that nothing in this article shall be deemed to confer on a High Court powers to withdraw any case from any authority as may be provided under sub-clause (b) of article 329 save as provided for by or under any law made by the appropriate Legislature."

6. In article 329 of the Constitution, after sub-clause (b) Amendment of article 329. the following sub-clause shall be added, namely:—

"(c) No court shall entertain any appeal, revision, writ application or other proceeding of any nature whatsoever against any order passed by any such authority as may be provided under sub-clause (b) of this article save as provided for by or under any law made by the appropriate Legislature."

STATEMENT OF OBJECTS AND REASONS

The scheme of Part XV of the Constitution was framed with the intention that electoral matters should not be questioned in any court and that the election to either House of Parliament or to the either House of the Legislature of a State shall not be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

It is the sole right of the Legislature to examine and determine all matters relating to the election of its own members and it was with this idea and under the scheme of Part XV of the Constitution that the Representation of the People Act, 1951 made elaborate provisions about the constitution of Election Tribunals to deal with election cases. In the original Act there was no provision of any appeal against the order of the Tribunal. Decisions of Election Tribunals were declared to be final and conclusive.

But the High Courts under other provisions of articles 226, 227 and 228 and the Supreme Court under the provisions of articles 132 and 136 entertained appeal, revision, writ application or other proceedings against the order of the Election Tribunals.

All these have led not only to undue delay in disposal of election disputes, but the intention of the Constitution makers in providing special authority for the speedy trial of election petition and thus excluding the jurisdiction of courts in electoral matters, has not met with success.

The Bill is intended to exclude the jurisdiction of High Courts and the Supreme Court in election disputes save as provided for by or under any law made by the appropriate Legislature.

NEW DELHI;

SHREE NARAYAN DAS.

The 20th September, 1958.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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136. (1) Notwithstanding anything in this Chapter, the Special leave to appeal by the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

* * * * *

226. (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

227. (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

Power of superintendence over all courts by the High Court.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

Transfer of certain cases to High Court.

228. If the High Court is satisfied that a case pending in a court sub-ordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

* * * * *

Bar to interference by courts in electoral matters.

329. Notwithstanding anything in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in manner as may be provided for by or under any law made by the appropriate Legislature.

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LOK SABHA

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BILL

further to amend the Constitution of India.

(*Shri Shree Narayan Das, M.P.*)

Bill No. 113 of 1958

THE CONSTITUTION (AMENDMENT) BILL, 1958

By

SHRI ATAL BIHARI VAJPAYEE, M. P.

(TO BE INTRODUCED IN LOK SABHA)

THE CONSTITUTION (AMENDMENT)
BILL, 1958

(TO BE INTRODUCED IN LOK SABHA)

A

BILL

further to amend the Constitution of India.

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

1. (a) This Act may be called the Constitution (Amendment) Act, 19⁵⁸. Short title and commen-
tary.
- (b) It shall come into force at once.
2. In the Eighth Schedule to the Constitution, after entry 11, the following new entry shall be inserted, name-<sup>Amendment of Eighth
Schedule.</sup>ly:—
“11A. Sindhi.”

STATEMENT OF OBJECTS AND REASONS

This Bill is intended to include Sindhi in the list of languages scheduled in the Constitution.

NEW DELHI;

ATAL BIHARI VAJPAYEE.

The 27th October, 1958.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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EIGHTH SCHEDULE

[Articles 344 (1) and 351]

Languages

1. Assamese.
2. Bengali.
3. Gujrati.
4. Hindi.
5. Kannada.
6. Kashmiri.
7. Malayalam.
8. Marathi.
9. Oriya.
10. Punjabi.
11. Sanskrit.
12. Tamil.
13. Telugu.
14. Urdu.

LOK SABHA

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further to amend the Constitution of India.

(Shri Atal Bihari Vajpayee, M.P.)