

COMMITTEE ON PRIVATE MEMBERS'
BILLS AND RESOLUTIONS

FIRST TO Hundredth REPORTS
(ENGLISH VERSION)



Third LOK SABHA

Legislative Branch-II

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FIFTH REPORT

(Third Lok Sabha)

1. The Chairman of the Committee on Private Members' Bills and Resolutions having been authorised by the Committee, present on their behalf this their Fifth Report.

2. The Committee met on the 14th August, 1962 for—

- (1) Classification and allocation of time for discussion of the Bills (*vide* Appendix I).
- (2) Examination of the following Bills under Rule 294(1)(a) of the Rules of Procedure seeking to amend the Constitution—
 - (i) Constitution (Amendment) Bill (*Amendment of Articles 136, 226 etc.*) by Shri Shree Narayan Das (*vide* Appendix II).
 - (ii) Constitution (Amendment) Bill (*Amendment of Articles 124 and 217*) by Pandit K. C. Sharma (*vide* Appendix III).
 - (iii) Constitution (Amendment) Bill (*Insertion of new Article 155A and amendment of Article 167*) by Shri Tika Ram Paliwal (*vide* Appendix IV).
 - (iv) Constitution (Amendment) Bill (*Amendment of Article 343*) by Shri C. K. Bhattacharyya.
 - (v) Constitution (Amendment) Bill (*Amendment of Articles 1 to 4 etc.*) by Shri Prakash Vir Shastri.

Classification and allocation of time to Bills

3. The Members concerned had been invited to present before the Committee their views on their Bills. Sarvashri A. T. Sarma, J. B. S. Bist and Hem Raj (who is also a Member of the Committee) attended the sitting.

4. After considering all aspects of the Bills, the Committee placed two Bills in category 'A' and seven Bills in category 'B' and allotted time for each of these Bills as shown in column 5 of Appendix I.

5. In regard to two Bills, namely, the All India Ayurvedic University Bill, 1962 by Shri A. T. Sarma and the Indian Railways (Amendment) Bill, 1962 by Shri Hem Raj, the Committee were informed that the President had withheld recommendation for their consideration by the House. The Committee, therefore, did not classify these Bills nor allotted time for their consideration.

Examination of the Constitution (Amendment) Bills

6. The Members who had given notices of the Bills and representatives of the Ministries concerned with the Bills had been invited to be present at the sitting. Pandit K. C. Sharma and Sarvashri Tika Ram Paliwal and Prakash Vir Shastri, the Members concerned, attended the sitting. The representatives of the Ministries of Law and Home Affairs were present.

7. The Committee considered the Bills and the reactions of the Government thereto. The Committee arrived at the following findings as a result of their examination of the Bills:—

Findings of the Committee

- (a) Constitution (Amendment) Bill (*Amendment of Articles 136, 226 etc.*) by Shri Shree Narayan Das.

The Bill seeks 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.

The Committee recommended that it be allowed to be introduced.

- (b) Constitution (Amendment) Bill (*Amendment of Articles 124 and 217*) by Pandit K. C. Sharma.

The Bill seeks to extend the age of retirement to seventy years in the case of a judge of the Supreme Court and to sixty five years in the case of a judge of the High Court.

[P.T.O.]

After hearing the views of the member incharge and the representative of the Ministry of Home Affairs the Committee recommended that the Bill be allowed to be introduced.

(c) Constitution (Amendment) Bill (*Insertion of new Article 155A and amendment of Article 167*) by Shri Tika Ram Paliwal.

The Bill seeks to enable the President to clothe the Governor of a State, whenever necessary, with responsibilities and powers to perform useful functions in the interests of national unity and a clean, impartial and efficient administration.

After hearing the views of the member incharge and the representative of the Ministry of Home Affairs, the Committee recommended that the Bill be allowed to be introduced.

(d) Constitution (Amendment) Bill (*Amendment of Article 343*) by Shri C. K. Bhattacharyya.

The Committee postponed the consideration of the Bill to the next sitting.

(e) Constitution (Amendment) Bill (*Amendment of Articles 1 to 4 etc.*) by Shri Prakash Vir Shastri.

The Bill sought to change the federal character of the Constitution into unitary.

After hearing the views of the member incharge and the representative of the Ministry of Law and considering all aspects of the matter, the Committee were of the opinion that the Bill be not allowed to be introduced.

Recommendations

8. 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 following Bills seeking to amend the Constitution be allowed to be introduced—

(a) Constitution (Amendment) Bill (*Amendment of Articles 136, 226 etc.*) by Shri Shree Narayan Das;

(b) Constitution (Amendment) Bill (*Amendment of Articles 124 and 217*) by Pandit K. C. Sharma;

(c) Constitution (Amendment) Bill (*Insertion of new Article 155A and amendment of Article 167*) by Shri Tika Ram Paliwal; and

(iii) that the Constitution (Amendment) Bill (*Amendment of Articles 1 to 4 etc.*) by Shri Prakash Vir Shastri be not allowed to be introduced.

NEW DELHI;

August 14, 1962

Sravana 23, 1884. (Saka)

S. V. KRISHNAMOORTHY RAO

APPENDIX I

Sl. No.	Name of the Bill and Member-in-charge	Bill No.	Category allotted	Time allotted by the Committee
*1	All India Ayurvedic University Bill by Shri A. T. Sarma.	42 of 1962		
2	Insurance (Amendment) Bill (<i>Amendment of sections 31A and 40 C</i>) by Shri Indrajit Gupta.	53 of 1962	B	1 hour
3	Beedi and Cigar Labour Bill by Shri A. K. Gopalan.	54 of 1962	B	1 hour
4	Restrictions on Edible Oils (for manufacture of Soap) Bill by Shri Diwan Chand Sharma.	47 of 1962	B	1 hour
5	Transport Co-ordination Bill by Shri Diwan Chand Sharma.	50 of 1962	B	1 hour
6	Shopkeepers (Fixation of Price Labels) Bill by Shri J. B. S. Bist	48 of 1962	B	1½ hours
7	Legal Practitioners (Amendment) Bill (<i>Amendment of sections 14 and 15</i>) by Shri Hem Raj.	63 of 1962	B	1 hour
8	Hindu Succession (Amendment) Bill (<i>Amendment of section 30</i>) by Shri Hem Raj.	51 of 1962	A	1½ hours
*9	Indian Railways (Amendment) Bill (<i>Amendment of sections 11 and 12</i>) by Shri Hem Raj.	52 of 1962		
10	Constitution (Amendment) Bill (<i>Amendment of Article 226</i>) by Shri Diwan Chand Sharma.	67 of 1962	A	1½ hours
11	Constitution (Amendment) Bill (<i>Amendment of the Eighth Schedule</i>) by Shri U. M. Trivedi.	68 of 1962	B	1 hour

*Neither classified nor time allotted—see para 5 of the Report.

**THE CONSTITUTION (AMENDMENT)
BILL, 1962**

By
SHRI SHREE NARAYAN DAS, M. P.

(TO BE INTRODUCED IN LOK SABHA)

THE CONSTITUTION (AMENDMENT) BILL, 1962

(TO BE INTRODUCED IN LOK SABHA)

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 1962. Short title and commencement.

5. (2) It shall come into force at once.

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

10 “(3) Nothing in clause (1) shall apply to any judgment, 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.”

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

“ (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." 5

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." 10

Amendment
of article
228.

5. In article 228 the following proviso shall be added, 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." 15

Amendment
of article
329.

6. In article 329 of the Constitution, after sub-clause (b) the following sub-clause shall be added, namely:— 20

"(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." 25

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 4th April, 1962.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * *

Special leave
to appeal by
the Supreme
Court.

136. (1) Notwithstanding anything in this Chapter, 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.

* * * *

Power of
High Courts
to issue cer-
tain writs.

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.

Power of
superinten-
dence over
all courts by
the High
Court.

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

(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.

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—

Transfer of certain cases to High Court.

(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.

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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;

Bar to interference by courts in electoral matters.

(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

A
BILL

further to amend the Constitution of India.

(Shri Shree Narayan Das, M. P.)

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**THE CONSTITUTION (AMENDMENT)
BILL, 1962**

By
PANDIT K. C. SHARMA, M.P.

(TO BE INTRODUCED IN LOK SABHA)

THE CONSTITUTION (AMENDMENT) BILL, 1962

(TO BE INTRODUCED IN LOK SABHA)

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 1962. Short title
and com-
mencement.

5 (2) It shall come into force at once.

2. In article 124 of the Constitution, in clause (2), for the words "sixty-five years", the words "seventy years" shall be substituted. Amendment
of Article
124.

3. In article 217 of the Constitution, in clause (1), for the words "sixty years", the words "sixty five years" shall be substituted. Amendment
of Article
217.

STATEMENT OF OBJECTS AND REASONS

Under Articles 124(2) and 217(1) of the Constitution of India, a judge of the Supreme Court shall hold office until he attains the age of sixty five years and a judge of the High Court until he attains the age of sixty years. The purpose of the present Bill is to extend the age of retirement to seventy years in the case of a judge of the Supreme Court and to sixty five years in the case of a judge of the High Court.

The reasons for the change is that the average age in India has increased upto forty seven and half years from thirty two years since the Constitution was made.

NEW DELHI;

K. C. SHARMA.

The 23rd May, 1962.

ANNEXURE
EXTRACTS FROM THE CONSTITUTION OF INDIA.

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124. (1)

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years;

Establishment and constitution of Supreme Court.

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office in the manner provided in clause (4).

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217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years:

Appointment and conditions of the office of a Judge of a High Court.

Provided that—

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;

(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

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LOK SABHA

A
BILL
further to amend the Constitution of India

(Pandit K. C. Sharma, M.P.)

**THE CONSTITUTION (AMENDMENT)
BILL, 1962**

By
SHRI TIKA RAM PALIWAL, M. P.

(TO BE INTRODUCED IN LOK SABHA)

THE CONSTITUTION (AMENDMENT) BILL, 1962

(TO BE INTRODUCED IN LOK SABHA)

**A
BILL**

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 1962. Short title
and com-
mencement.

5 (2) It shall come into force at once.

2. After Article 155 of the Constitution, the following shall be inserted, namely:— Insertion of
new Article
155A.

10 "115A. (1) Having regard to the circumstances obtaining in a State, the President may, along with the warrant appointing a Governor or at any time after the appointment of a Governor, issue an 'Instrument of Instructions' to him containing Direc-
tives in general or specific terms regarding the carrying on of Government and the conduct of Government business in that State.

15 (2) Notwithstanding anything contained in this Constitution, a Governor, whenever he feels it necessary, may act in his discretion and take such steps as he deems proper to give effect to the Directives contained in the 'Instrument of Instructions'.

For this purpose, the Governor may also amend the rules made by him under clause (3) of Article 166:

Provided that all cases in which the Governor acts in his discretion shall be reported by him to the President.

(3) The Governor shall be the sole judge as to the scope of the Directives contained in the 'Instrument of Instructions'.

Amendment
of article
167.

3. In clause (c) of article 167 of the Constitution, the following words shall be added at the end, namely:—

"or to submit for the reconsideration of the Council any matter on which a decision has been taken by the Council. After such consideration or reconsideration, as the case may be, with special reference to any points to which the Governor may have referred, the matter shall be resubmitted to the Governor, who may give his assent to it or may act in his discretion under clause (2) of article 155A or may reserve it for a Direction from the President, irrespective of the fact whether such matter falls under the State List or not."

STATEMENT OF OBJECTS AND REASONS

Democracy in our country is still in its infancy. For a considerable time to come, it will need for its healthy growth, constant vigilance and anxious care on our part to safeguard it not only against forces which are manifestly and avowedly inimical to it but also against dangers and vices that arise and originate from within itself.

Further, with a view to preserve national unity and territorial integrity of the country, it will always be necessary to ensure, throughout the country, a certain amount of uniformity of approach not only in more important matters of social, economic and educational policies, but also in matters affecting day-to-day administration.

The proposed amendment of the Constitution seeks to enable the President to clothe the Governor of a State, whenever necessary, with responsibilities and powers to perform useful functions in the interests of national unity and a clean, impartial and efficient administration.

NEW DELHI;

The 24th May, 1962.

TIKA RAM PALIWAL.

ANNEXURE

Extracts from the Constitution of India

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Duties of
Chief
Minister as
respects the
furnishing
of infor-
mation to
Governor,
etc.

167. It shall be the duty of the Chief Minister of each State—

(a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

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LOK SABHA

A
BILL
further to amend the Constitution of India.

(Shri Tilka Ram Palwal, M.P.)

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SIXTH REPORT

(Third Lok Sabha)

1. the Chairman of the Committee on Private Members' Bills and Resolutions having been authorised by the Committee, present on their behalf, this their Sixth Report.

2. The Committee met on the 20th August, 1962 to consider allotment of time to the Resolutions set down in the List of Business for Friday, the 24th August, 1962.

3. The Members whose resolutions had been included in the List of Business for the 24th August, 1962 had been invited to present their views on the resolutions before the Committee. Sarvashri Inder J. Malhotra and Shree Narayan Das attended the sitting.

4. The Committee recommend the allocation of time as follows :—

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| (1) Resolution regarding Working conditions of research scholars and scientific workers. | 1½ hours. |
| (2) Resolution regarding Indirect taxes. | 1½ hours. |
| (3) Resolution regarding Regional development. | 1 hour. |
| (4) Resolution regarding Influence of money in elections. | 1½ hours. |
| (5) Resolution regarding Abolition of contract system. | 1 hour. |
| (6) Resolution regarding Implementation of Directive Principles of State Policy. | 1½ hours. |

NEW DELHI;

August 20, 1962

Śravana 29, 1884 (Saka).

S. V. KRISHNAMOORTHY RAO.