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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 19th February, 1968:—

BILL No. 9 of 1968

A Bill to supplement the Jammu and Kashmir Representation of the People Act, 1957.

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

1. (1) This Act may be called the Jammu and Kashmir Representation of the People (Supplementary) Act, 1968.

Short title
and com-
mence-
ment.

5 (2) It shall be deemed to have come into force on the 9th day of February, 1968.

Validation of certain provisions of the Jammu and Kashmir Representation of the People Act, 1957.

2. The provisions of sections 123, 124 and 124A of the Jammu and Kashmir Representation of the People Act, 1957, providing for appeal to the Supreme Court from every order made by the Jammu and Kashmir High Court under section 106 or section 107 of that Act and for matters connected therewith, shall be as valid as if those provisions had been enacted by Parliament. 5

Jammu and Kashmir Act No. IV of 1957.

Repeal and saving.

3. (1) The Jammu and Kashmir Representation of the People (Supplementary) Ordinance, 1968, is hereby repealed.

2 of 1968.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act. 10

STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 (43 of 1951) was amended in 1966 by Act No. 47 of 1966, and one of the important changes effected by that amendment was the abolition of the election tribunals and provision for the trial of election petitions by the High Court. That amendment also made provision for appeal from the order of the High Court in an election petition, whether on a question of law or of fact, to the Supreme Court.

2. The Jammu and Kashmir Representation of the People Act, 1957 (Jammu and Kashmir Act No. IV of 1957) was amended by the Jammu and Kashmir Representation of the People (Second Amendment) Act, 1967 (Jammu and Kashmir Act No. XI of 1967) which was passed by the Legislature of the State of Jammu and Kashmir with a view to incorporating such of the changes in the Jammu and Kashmir Representation of the People Act, 1957 as were incorporated in the Representation of the People Act, 1951, by the Representation of the People (Amendment) Act, 1966, so far as the rest of India is concerned. This was done with a view to putting the State of Jammu and Kashmir on the same footing as the rest of India in the matter of the law relating to elections. One of the important changes effected by the Jammu and Kashmir Representation of the People (Second Amendment) Act, 1967, was the provision made in that amendment Act for appeal to the Supreme Court from every order made by the Jammu and Kashmir High Court in respect of an election petition. The said provisions contained in the new sections 123, 124 and 124A of the Jammu and Kashmir Representation of the People Act, 1957, sought to confer jurisdiction on the Supreme Court and this was beyond the legislative competence of the Legislature of the State of Jammu and Kashmir. For, under article 138 of the Constitution, it is Parliament alone that can by law confer additional jurisdiction on the Supreme Court in respect of any of the matters in the Union List.

3. Therefore, in order to meet the situation thus created by the aforesaid provisions of the Jammu and Kashmir Representation of the People Act, 1957, it was considered necessary to extend Entry 72 of the Union List in the Seventh Schedule, with suitable modifications, to the State of Jammu and Kashmir by a Constitutional

Order issued by the President under article 370 of the Constitution. The extension of the Entry with suitable changes was by itself not sufficient and it had to be followed by a legislation so as to confer additional jurisdiction on the Supreme Court to hear appeals from orders of the Jammu and Kashmir High Court in respect of election petitions. As Parliament was not in session, and as the situation called for immediate action, an Ordinance called "The Jammu and Kashmir Representation of the People (Supplementary) Ordinance, 1968 (No. 2 of 1968)" was promulgated by the President.

4. The Bill seeks to replace the Ordinance and, when enacted, would confer jurisdiction on the Supreme Court to hear appeals from the decisions of the Jammu and Kashmir High Court in respect of election petitions.

NEW DELHI;

P. GOVINDA MENON.

The 11th February, 1968.

S. L. SHAKDHER,
Secretary.