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प्रसाधारण

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 Bills were introduced in Lok Sabha on the 13th December, 1968:—

BILL No. 106 OF 1968

A Bill further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 1968. Short
Title
and com-
mence-
ment.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**Amend-
ment of
article
80.**

2. In article 80 of the Constitution,—

(a) for clause (1), the following clause shall be substituted,
namely:—

“(1) The Council of States shall consist of not more than two hundred and thirty-eight representatives of the States and of the Union territories”;

(b) clause (3) shall be omitted.

**Amend-
ment
of arti-
cle 171.**

3. In article 171 of the Constitution—

(a) in clause (3)—

(i) in part (d), for the words “as nearly as may be, one-third” the words “the remainder” shall be substituted;

(ii) part (e), shall be omitted.

(b) clause (5) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Article 80 of the Constitution authorises the President to nominate to Rajya Sabha twelve members from among persons who have special knowledge in matters like literature, science, art and social service. A similar power is vested in the Governor of a State under article 171 with respect to States having Legislative Councils, but the number of members to be nominated depends upon the size of the Legislative Council. The ostensible object of these provisions is to secure the distinguished persons a place in the Upper Houses so that their experience is available in the deliberations of those bodies. Experience of the working of these provisions has, however, shown that this power, instead of being used for the purpose for which it is intended, has been, and is in an increasing manner likely to be, used in the furtherance of party or of political ends. Moreover, the functioning of the Upper Houses for the last fifteen years and more has shown that this power to nominate members which militates against the basic system of representative democracy enshrined in our Constitution, is no longer necessary. Incidentally, it is significant that under article 171(2), Parliament may, by law, completely alter the composition of the Legislative Councils, a fact which would show that the power to nominate members, among other matters, was not intended to be of a permanent character.

The Bill seeks to amend the relevant provisions of the Constitution so as to do away with the power of nomination to Legislatures and includes the necessary consequential changes.

NEW DELHI;

C. C. DESAI.

The 29th October, 1968.

BILL No. 114 OF 1968

A Bill further to amend the Hindu Succession Act, 1956

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

Short title
and com-
mencement.

1. (1) This Act may be called the Hindu Succession (Amendment) Act, 1968.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 24 of the Hindu Succession Act of 1956 the following new section shall be inserted, namely:—

Insertion
of new
section
24A.

"24A. Where, before or after the commencement of this Act, a Hindu widow remarries or has ceased or ceases to be a Hindu by conversion to another religion, she shall divest herself of the estate inherited from her husband and it shall pass to the next heirs of her deceased husband as if she had then died."

Re-marriage
and conver-
sion to
disqualify
widows

STATEMENT OF OBJECTS AND REASONS

Under the Hindu Succession Act, 1956, a widow of a male Hindu dying intestate inherits simultaneously with sons, daughters and other heirs specified in class I of the schedule thereof and she takes her share absolutely. Remarriage or conversion of a Hindu widow to any other religion are not considered, under the Act, as grounds for divesting her of the property inherited from her husband. Although Hindu Widows Re-marriage Act, 1856 has not been repealed, section 4 of the Hindu Succession Act, 1956, in effect, abrogates the operation of that Act in the case of a Hindu widow who succeeds to the property of her husband. Further, section 26 of the Hindu Succession Act, 1956, deals with certain disqualifications ensuing upon change of religion, but does not affect the rights of a widow who has succeeded to her husband. Share in the property of the husband was given to the widow in order to make a definite provision for her to lead an honourable life as a widow. If she remarries or changes her religion, then the very purpose for which the provision was made stands frustrated and as such it is desirable that she should be divested of the property which she inherited from her husband and the same should be inherited by heirs of the husband.

Hence the Bill.

NEW DELHI:

OM PRAKASH TYAGI

The 12th November, 1968.

BILL No. 112 OF 1962

A Bill further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, **Short title.**
1968.

Amend-
ment of
heading
of Part
IV.

2. In the heading of Part IV of the Constitution, the word "Directive" shall be omitted.

Amend-
ment of
Article 37.

3. In article 37 of the Constitution, for the words "shall not be enforceable by any court, but the principles therein laid down are nevertheless", the word "are" shall be substituted,

STATEMENT OF OBJECTS AND REASONS

Part IV of the Constitution is a very important part of our Constitution. But giving it the name of "Directive" and barring its enforcement by any Court of Law has put a premium on its defiance by the Government. Rather legislation even contradictory to the provisions of this Part and even going in the opposite direction cannot be questioned in any Court of Law. This has made our Constitution a laughing stock. It is high time that after the lapse of twenty-one years of Independence and in the nineteenth year of our Republic we remove the bar from the Courts of Law with regard to the enforcement of the provisions of this Part

Hence the Bill.

NEW DELHI;
The 13th November, 1968.

BHOGENDRA JHA

BILL No. 110 OF 1968

A Bill further to amend the Hindu Succession Act, 1956.

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

Short
title.

1. This Act may be called the Hindu Succession (Amendment) Act, 1968.

Amend-
ment of
section 10.

2. In section 10 of the Hindu Succession Act, 1956 (hereinafter referred to as the principal Act),—

5 30 of
1956

(i) in Rule 2, the words “and daughters” shall be omitted;

(ii) in Rule 3, the words "or each pre-deceased daughter" shall be omitted; and

(iii) in Rule 4,—

(a) in part (i), the words "and daughters" shall be omitted;

(b) part (ii) shall be omitted.

3. In section 15 of the principal Act,—

Amend-
ment of
section 15.

(1) for clause (a) of sub-section (1), the following clause shall be substituted, namely:—

"(a) firstly, upon the sons (including the children of any pre-deceased son) and the husband;" and

(2) in sub-section (2),—

(i) clause (a) shall be omitted;

(ii) in clause (b), for the words and brackets "in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter)", the words "in the absence of any son of the deceased (including the children of any pre-deceased son)" shall be substituted.

4. In section 16 of the principal Act, for Rule 2, the following Rule shall be substituted, namely:—

Amend-
ment of
section 16.

"Rule 2.—If any son of the intestate had pre-deceased the intestate leaving his own children alive at the time of the intestate's death, the children of such son shall take between them the share which such son would have taken if living at the intestate's death."

5. In section 17, for sub-clause (a) of clause (ii), the following sub-clause shall be substituted, namely:—

Amend-
ment of
section 17.

"(a) firstly, upon the sons (including the children of any pre-deceased son) and the mother;"

6. In section 20 of the principal Act,—

Amend-
ment of
section 20.

(i) for the word "child", the word "son" shall be substituted; and

(ii) the words "or she" shall be omitted.

Amend-
ment of
Schedule.

7. In the Schedule to the principal Act,—

(1) for the heirs in class I, the following heirs in Class I shall be substituted, namely:—

“son; widow; mother; son of a pre-deceased son; widow of a pre-deceased son; son of a pre-deceased son of a pre-deceased son; widow of a pre-deceased son of a pre-deceased son.”.

(2) in heirs in Class II,—

() in entry II, the words, brackets and figures “(1) Son's daughter's son, (2) son's daughter's daughter” shall be omitted;

(ii) entry III shall be omitted; and

(iii) in entry IV, the words, brackets and figure “(4) sister's daughter” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Hindu Succession Act, 1956, a daughter inherits both from her parental side as also through her husband. Inheritance by the daughter of the parental property not only leads to family feuds and fragmentation of family holdings but also leaves the sons at a disadvantage. The purpose of the present Bill is to do away with this anomaly.

NEW DELHI;
The 13th November, 1968.

CHAUDHURI RANDHIR SINGH.

BILL No. 115 OF 1968

A Bill further to amend the Contempt of Courts Act, 1952.

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

Short
title, ex-
tent and
com-
mence-
ment.

1. (1) This Act may be called the Contempt of Courts (Amendment) Act, 1968.

(2) It extends to the whole of India.

(3) It shall come into force at once.

XXXII
of 1952.

2. In the Contempt of Courts Act, 1952, in section 4,—

Amend-
ment of
section 4.

(i) the first proviso shall be re-numbered as second proviso and before the second proviso, as so re-numbered, the following proviso shall be inserted, namely:—

“Provided that the accused may be discharged if he chooses to tender an apology on entering appearance to the satisfaction of the court.”

(ii) in the second proviso, as so re-numbered, for the word “Provided”, the words “Provided further” shall be substituted.

(iii) the following *explanation* shall be added at the end, namely:—

Explanation.—For purposes of this Act, the term “contempt of court” shall mean—

(a) misrepresentation of proceedings of court; or

(b) prejudicing the public for or against either party; or

(c) attempting to influence the court's judgment, insulting or scandalizing the presiding officer or attributing unworthy motives in any writing, except allegations made in transfer applications, or disregard of prescribed rules of good behaviour in courts.’

STATEMENT OF OBJECTS AND REASONS

The present law of contempt of courts is embodied in the Contempt of Courts Act, 1952 (Act XXXII of 1952). But this Act does not contain any definition of the term "contempt of court". Courts are guided largely by the previous pronouncements of judges made by them as and when cases came up before them. A clear definition of the term "contempt of court" is necessary, particularly in view of the fact that the guarantee afforded by article 19(1) (a) of the Constitution to "freedom of speech and expression" specifically excludes from its protection anything said or done in relation to contempt of court.

It has also been observed from proceedings of courts that the first proviso of section 4 of the Contempt of Courts Act, 1952, providing for the discharge of accused on tendering apology has not been properly understood and courts have been demanding that the accused should offer apology before hearing of the case proceeded, that is to say as soon as the accused entered appearance in obedience to the show cause notice. This procedure is not warranted by the wording of the first proviso. However, as the courts have been proceeding in that direction, it is necessary that the position should be cleared that this proviso is intended only to enable the judge to know before proceeding with the hearing whether the accused would offer an apology and thus save the time of the court or whether the accused would like to proceed with the hearing.

Hence the Bill.

NEW DELHI;

TENNETI VISWANATHAM.

The 13th November, 1968.

S. L. SHAKDHER,
Secretary.