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The Gazette of India

असाधारण
EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं 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 27th July, 1973:—

BILL No. 14 OF 1973

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1973.
2. After article 130 of the Constitution, the following article shall be inserted, namely:—

"130A. Notwithstanding anything contained in article 130, a Bench of the Supreme Court shall sit in Calcutta, Madras and Bombay, at least for a period of one month every year at each of the three places."

Short
title.
Insertion
of new
article
130A.

STATEMENT OF OBJECTS AND REASONS

Although article 130 envisages that the Supreme Court shall sit, besides Delhi, in such other places as the Chief Justice of India may, with the approval of the President, from time to time, appoint, but during the last more than 23 years of the working of the Constitution, the Chief Justice of India has not appointed any other place for holding the session of the Court. It is felt that if periodical sittings of the Court at regular intervals are held in the three major cities the justice could be made more easily accessible to the litigant public of these regions. Besides, the local sessions of the apex judicial body of the country would generate a sense of cohesiveness among the masses of remote regions of the country with the rest of the population and make for national integration. It will also help in breaking, to some extent, the monopoly of Delhi-based Supreme Court advocates. This Bill seeks to achieve the aforesaid objectives.

R. P. ULAGANAMBI.

NEW DELHI;

The 17th February, 1973.

FINANCIAL MEMORANDUM

An additional recurring expenditure of about rupees Five lakhs is likely to be involved from the Consolidated Fund of India in connection with the sittings of the Supreme Court at Calcutta, Madras and Bombay.

No non-recurring expenditure is likely to be involved.

BILL NO. 47 OF 1973

A Bill to provide for compulsory disclosure of assets of Members of Parliament and their families.

Enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Disclosure of Assets of Members of Parliament Act, 1973. Short title.

2. In this Act, unless the context otherwise requires,—

(a) 'family' means and includes any person related, whether by blood or marriage, to a Member of Parliament or to his wife or her husband and wholly dependent on the Member;

(b) 'immovable property' includes land, building and any interest in mineral wealth;

Definitions.

(c) 'Member' means a member of either House of Parliament and includes a member of the Council of Ministers of the Union Government; and

(d) 'Schedule' means the schedule appended to this Act.

Periodical disclosure of assets of Members.

3. Every Member shall,—

(a) if he holds office as such on the date of the commencement of this Act, within a period of one month from the date on which it receives the assent of the President; or

(b) if he is elected or nominated after the commencement of this Act, within a period of one month from the date of assent or the date of such election or nomination, whichever is later; and

(c) thereafter, every year on or before the 30th day of April, submit to the House of which he is a member, and if he is a Minister without being a member of either House, to the Lok Sabha, a return in the form given in the Schedule, of all properties owned, acquired or inherited by the Member or held by him on lease or mortgage either in his own name or in the name of any member of his family, together with details of the means by which, or the sources from which, such property was acquired or inherited.

Returns to be placed before Parliament.

4. Every return submitted under section 3 shall,—

(a) as soon as possible after it is submitted, be placed before both Houses of Parliament; and

(b) be deemed to be a public document and the authority to whom the return is submitted may, subject to such conditions (including payment of fees) as may be prescribed by the Presiding Officers of the Houses, give to any person on demand a copy of such return...

Retrospective effect.

5. This Act shall be deemed to have come into force on the 6th March, 1967 and the returns due in accordance with the foregoing provisions of this Act shall be submitted within a period of one month from the date on which this Act receives the assent of the President.

Penalty for non-compliance.

6. A Member, who fails to submit the return by the due date, shall be disqualified for being a member of either House of Parliament for a period of six years unless the House concerned waives, on being satisfied by the explanation given by the member, fully or partially through a Resolution passed to that effect.

SCHEDULE

(See section 3)

Return of assets of Members of Parliament/Ministers as on the 31st March, 19—.

1. Name of the Member/Minister.
2. Date of election or nomination

Details of Assets

3. Immovable property
4. Business interests
5. Shares
6. Stock
7. Scrip
8. Partnership
9. Debentures and Securities
10. Other interests
11. Bank accounts
12. Where aggregate value of all Jewellery, Gold and Precious stones exceeds Rs. 10,000—
 - (a) Jewellery
 - (b) Gold
 - (c) Precious stones
13. Movables (including motor vehicles) where the aggregate values exceeds Rs. 10,000
14. Details of Trusts with which the Members has any connection
15. Remarks, if any, of the Member

DETAILS OF ASSETS OF THE MEMBERS OF THE FAMILY

Same as items 3 to 15 above.

DECLARATION

I, ... declare that to the best of my knowledge and belief, the information furnished in the above return is true and complete.

Place

Signature of the Member

Date

NOTE.—Any member may give a short note explaining the nature of acquisition of the assets in the column relating to remarks.

2. If the member so chooses, he may also explain the liabilities incurred by him and by his family members in the column relating to remarks.

PROCEDURE FOR FURNISHING THE RETURN

- (1) Every member shall fill up this form furnishing information for the period ending 31st March.
- (2) The member shall after filling it send it to the Secretary to the Houses concerned on or before the due date.
- (3) The Secretary of the House concerned, on receipt of the same, shall cause it to be placed on the Table of the respective House.

STATEMENT OF OBJECTS AND REASONS

About four years back, the Tamil Nadu Legislature had adopted a Resolution requiring all the Members of the Legislature including the Ministers and Presiding Officers of both the Houses to submit periodical returns to the respective Houses of all properties owned, acquired or inherited by the Member or held by him on lease or mortgage either in his own name or in the name of any member of his family, together with details of the means by which or the sources from which such property was acquired or inherited. The resolution had also urged the Government of India to enact a law on the lines of the Resolution but nothing has so far been done in that direction. It will perhaps be germane to quote here extracts from the aforesaid Resolution:

“...And Whereas it necessary in the public interest to avoid even the slightest degree of suspicion in the mind of the common people regarding the absolute integrity of the Members of the Legislature and the Ministers;

AND Whereas for the purpose of achieving the above object, this House considers that Members of the Legislature including the Ministers and Presiding Officers of both the Houses should disclose their assets to the House concerned at regular intervals.”

2. It is high time that a law to achieve the above objective, in so far as Members of Parliament and the Union Ministers are concerned, is enacted by Parliament.

Hence this Bill.

NEW DELHI;
The 15th February, 1973.

R. P. ULAGANAMBI.

FINANCIAL MEMORANDUM

Clause 4(b) of the Bill provides for supply of a copy of a return to any person on demand. This would involve expenditure of about rupees one lakh annually from the Consolidated Fund of India on account of paper and printing, etc.

No non-recurring expenditure is likely to be involved.

BILL No. 42 OF 1973.

A Bill to provide for compulsory military training or social service for the students in the country.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Military Training or Social Service for the Students Act, 1973.

(2) It extends to the whole of India.

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

2. Military training or social service shall be compulsory for all students of all schools and colleges in the country, who have attained the age of fourteen years, irrespective of their caste, creed, sex or faith.

Short
title,
extent
and
commencement.

Compulsory
military
training
or social
service
for all
students.

Commence-
ment and
period for
military
training
or social
service.

3. Military training or social service shall be compulsory for a minimum period of two years for each student of Tenth Standard or above, irrespective of their caste, sex or creed, during the period of his or her studies or after the completion of his or her regular studies.

School
leaving
certificates
to be
issued
after
comple-
tion of
military
training
or social
service.

4. No school leaving certificate shall be granted till a student has completed the compulsory military training or social service.

Rules
to be
framed
and ad-
ministered
by the
Central
Govern-
ment.

5. The Central Government, shall, by notification in the Official Gazette, frame rules for carrying out the purposes of this Act, and the scheme shall be administered by that Government through such officers and authorities as it may deem fit.

STATEMENT OF OBJECTS AND REASONS

Considering long land and coastal frontier, particularly the highly sensitive northern frontier, the need to strengthen and build the second and third lines of defence of the country can hardly be exaggerated. It is imperative for us to build the third line of defence which this Bill seeks to provide by making military training for students of all schools and colleges in the country compulsory.

At the same time it is necessary to utilise the services of students in building modern India. Thus, those who are, due to various reasons, unable to take to military training should contribute in building modern India by performing social service.

Hence this Bill.

NEW DELHI;

VIKRAM MAHAJAN.

The 10th April, 1973.

FINANCIAL MEMORANDUM

Clause 2 of the Bill necessitates the appointment of officers and authorities at Centre and State levels. Supply of necessary equipment is also needed for implementing the provisions of the Bill. This would involve an initial non-recurring expenditure and also recurring expenditure in the shape of pay and allowances. The recurring financial requirements of the Scheme may be approximately to the tune of rupees one crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved from the Consolidated Fund of India.

DELEGATED LEGISLATION

The powers given to the Central Government for framing rules for carrying out the purposes of this Bill *vide* clause 5 of the Bill are of ordinary nature.

BILL NO. 45 OF 1973

A Bill to provide for compulsory cultivation and setting up of agriculture-cum-cottage industries by the Government at village level in each block of the country for solving the unemployment problem of all sections of society and for making available sufficient quantity of foodgrains in Government godowns at all times.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Compulsory Cultivation and setting up of Agriculture-cum-Cottage Industries Act, 1973. **Short title.**

2. All unemployment persons, male and female, in a village shall be provided with the means of livelihood. **All unemployed persons to be provided with means of livelihood.**

Acquisition of land and setting up agriculture-cum-cottage industries and cultivation.

Type of industries to be set up.

Industries to be managed by farmers and labourers of villages.

Stock of food-grains to be maintained with a view to meet the requirement of all.

3. Government shall acquire 500 acres of land in each block of the country and in 10 acres thereof, there shall be set up agriculture-cum-cottage industries and the remaining 490 acres shall be cultivated on scientific lines by Government.

4. The industries to be set up under section 3, shall be such which shall utilise agricultural produce as raw material and shall include production of mustard oil through "Kolhus", spinning of *Charkha*, bee-keeping, pounding of rice, grinding of wheat, etc.

5. The industries shall be managed by the poor farmers and labourers of the villages and shall function under the supervision of district authorities.

6. Foodgrains produced in each block shall be held in stock by the Government to meet the requirement of the whole country and to bring down the prices of foodgrains.

STATEMENT OF OBJECTS AND REASONS

The acquisition of five hundred acres of land by Government in each block of the country for cultivation and setting up of agriculture-cum-cottage industries would certainly go a long way to remove poverty. Thousands of workers would be able to get employment. Besides, there would be substantial increase in the production of foodgrains. Now when the Government has taken over the wholesale trade in foodgrains, the responsibility of growing foodgrains in each block should also be shouldered by Government itself so that the object of taking over the wholesale trade could be achieved. This would provide employment to villagers and also the prices would come down. Nobody would starve in villages. The enactment of a legislation, therefore, to provide for the compulsory cultivation and setting up of agriculture-cum-cottage industry in every block of the country so that nobody suffers from starvation in independent India is necessary.

Hence this Bill.

NEW DELHI;
The 17th April, 1973.

RAM BHAGAT PASWAN.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for means of livelihood for all rural unemployed persons. Clause 3 provides for acquisition of land and setting up of cottage industries in each block of the country. Cultivation and running of cottage industries by the Government will bring crores of rupees of income to the Government which will more than make up the expenditure to be incurred by the Government on acquisition of land and setting up of cottage industries. However, it is estimated that a recurring expenditure of about rupees one crore is likely to be involved from the Consolidated Fund of India.

The Bill, if enacted, is also likely to involve a non-recurring expenditure of about rupees fifty crores.

BILL NO. 40 OF 1973

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1973.

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.

2. In article 80 of the Constitution,—

Amend-
ment of
article 80.

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

“(1) The Council of States shall consist of—

(a) Twelve members to be nominated by the President in accordance with the provisions of clause (2);

(b) ten representatives from each of the States; and

(c) three representatives from each of the Union territories.”;

(ii) clause (2) shall be omitted; and

(iii) clauses (3), (4) and (5) shall be re-numbered as clauses (2), (3) and (4) respectively.

3. Fourth Schedule to the Constitution shall be omitted.

Omission
of Fourth
Schedule.

STATEMENT OF OBJECTS AND REASONS

The Rajya Sabha is a Council of States under the Constitution. The main objective of a second Chamber in a Federal State is to give true and proper representation to the States. True and proper representation is never possible if the States are represented in unequal numbers inasmuch as the bigger States with a larger number of representatives are always in an advantageous position over the smaller States with a much lesser number of representatives. The Bill seeks to remove this lacunae.

NEW DELHI;

DINESH CHANDRA GOSWAMI.

The 24th April, 1973.

BILL No. 48 OF 1973

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1973.

, 1 of 1965.

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

2. In section 224 of the Companies Act, 1956 (hereinafter referred to as the principal Act), after sub-section (1), the following proviso shall be inserted, namely:—

“Provided that every such company shall obtain from the person proposed to be appointed as auditor of the Company a certificate to the effect that he has not accepted the offers of appointment for auditing the accounts of more than nine companies in accordance with the requirements of the Companies Act, 1956.”

3. In section 226 of the principal Act,—

(i) Proviso to sub-section (1) shall be omitted;

(ii) after clause (a) of sub-section (3), the following clause shall

Short
title and
commence-
ment.

Amend-
ment of
section
224.

Amend-
ment of
section

226.

be inserted, namely:—

“(aa) a person who has accepted offers of appointment for auditing the accounts of not less than eleven companies in accordance with the requirements of this Act;”.

Amend-
ment of
sections
275 and
276.

4. In sections 275 and 276 of the principal Act, for the word “twenty” wherever it occurs, the word “five” shall be substituted.

Amend-
ment of
section
277.

5. In section 277 of the principal Act,—

(i) in sub-section (1), for the word “twenty”, the word “five” shall be substituted;

(ii) in sub-section (2),—

(a) for the word “nineteen”, the word “four” shall be substituted;

(b) for the word “twenty” wherever it occurs, the word “five” shall be substituted.

Amend-
ment of
section
279.

6. In section 279 of the principal Act,—

(i) for the word “twenty” wherever it occurs, the word “five” shall be substituted;

(ii) The following proviso shall be added at the end, namely:—

“Provided that if such contravention continues he shall be punishable with fine of two thousand rupees for every week or part of a week during which such contravention continues in respect of each of those companies after the first five.”.

Insertion
of new
sections
618A and
618B.

7. After section 618 of the principal Act, the following sections shall be inserted, namely:—

Chairmen
of public
under-
takings.

618A. No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be appointed Chairman of a Government company.

Chairman
of a Gov-
ernment
company
not to be
disquali-
fied for
being a
member
of Par-
liament or
of State
Legis-
lature.

618B. A person who holds the office of the Chairman of a Government company shall not be disqualified for being chosen as, and for being, a member of either House of Parliament or a member of the Legislative Assembly or the Legislative Council of a State.

STATEMENT OF OBJECTS AND REASONS

Monopolistic tendencies wherever they occur have to be curbed. There are certain firms of Chartered Accountants, mostly controlled by single individuals, which operate in such a manner that they would not allow new entrants to make their way in the profession of Chartered Accountants. The result is that their stranglehold in the profession tends to become firmer and firmer. In the present situation a new Chartered Accountant, howsoever competent he may be, has no hope for making his way in the profession. Further, because of the monopoly of a few in this profession, the real purpose of Audit is seldom realised. The monopoly of few firms of Chartered Accountants in the country has to be done away with.

At present it is permissible for a person to hold office of director in as many as twenty companies simultaneously. It is our common experience that when a person holds directorship of large number of companies, irrespective of their size and extent of the area of operation, he acquires certain economic power and resources to manipulate economic situations to his exclusive advantage and to the detriment of the general public and the shareholders. Further an individual cannot attend to the duties of the office of the director of large number of companies with the same efficiency as he would if he holds such an office in lesser number of companies. Hence the existing limit of twenty has to be reduced to five.

The existing punishment provided for contravention of the provisions laying down the limit of the number of companies in which a person can hold the office of director is inadequate. Punishment for continuing contravention has also to be provided.

It is also felt that all Government companies should invariably be headed by non-service man so that the management of the Government companies is run with greater efficiency. By their habit and training, civil servants are procedure oriented, with the result that efficiency of Government companies suffers. Further, a civil servant, while heading a Government company, cannot be expected to steer clear of his official prejudices and influences and, therefore, he cannot give purposeful direction to the affairs of the company. A non-service man will be in a position to run a company on business principles and to provide leadership to the company according to the changing situations. When Governments of the Centre, States and the administration of civic bodies could be run efficiently by non-servicemen, there is no reason why Government companies, as a matter of rule, cannot be well-managed by non-servicemen.

The Bill seeks to give effect to the aforesaid matters.

NEW DELHI;
The 8th May, 1973.

E. V. VIKHE PATIL.

BILL No. 43 OF 1973

A Bill to provide for compulsory family planning for all citizens of the country.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Compulsory Family Planning Act, 1973.

Short
title,
extent
and
commen-
cement.

(2) It *extends* to the whole of India.

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

2. "Family planning" in this Act means restricting the size of the family so that it consists of husband, wife and not more than three children, male or female, at any given time.

Defi-
nition.

3. Family Planning shall be compulsory to all married citizens irrespective of their caste, creed or faith.

Family
planning
to be
compul-
sory.

Incentive
to per-
sons
going in
for
Vasec-
tomy/
TUBE-
ctomy
opera-
tions.

4. (1) Each person, not being a Government employee, having undergone Vasectomy/Tubectomy operations for the purpose of restricting the size of his family after having procreated three or less children (male and/or female, both inclusive), shall be given incentive in the form of cash grant in lump sum, or employment of the children in Government service:

Provided that each educated unemployed or under-employed person who undergoes such an operation shall be provided a suitable job.

(2) In the case of a Government employee, he shall be given two advance increments from the 1st day of the calendar month in which he undergoes an operation for the purpose.

(3) In addition to the benefits contained in the foregoing sub-sections, the Government shall also provide free education to all the three children of all the persons who undergo such an operation upto Higher Secondary standard and also provide text books, exercise books and other stationery free of cost.

Penal-
ties
for not
com-
plying
with the
provisions
of the
Act.

5. (1) Any Indian citizen, not being a Government employee, who refuses to adopt the aforesaid scheme and gives birth to a fourth child, shall—

(a) be punishable with a fine which may extend to Rs. 500 (Rupees five hundred only);

(b) cease to enjoy the benefits referred to in section 4 from the date a fourth child is born to him/her

(c) be liable to pay for the educational expenses of one child for a period of ten years; and

date a fourth child is born to him/her;

(2) Any Government employee who gets a fourth child after one year from the date of commencement of the Act, shall—

(a) be liable to the penalties provided for in sub-section (1);

(b) cease to have annual increments for 5 (five) years; and

(c) not be considered for any promotion for a period of ten years.

Power to
make
rules
for effec-
tive
imple-
men-
tation
of the Act.

6. The Central Government shall make rules to give the provisions of the Act an effective implementation through such officers and authorities as may be considered necessary for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

The most crucial problem facing the country at present is the population problem. Over the years, because of the provisions of medical and health facilities by the Government, mortality rate has considerably come down and the life span has been proportionately increased. This has accentuated the population problem. Unless speedy and concrete measures are taken to tackle the Malthusian horror, the country will be faced with an alarming situation during the eighties and then it would be well nigh impossible to retrieve the situation. All governmental efforts on the economic front and the additional resources created thereby have been sapped by the increasing population and have not resulted in any tangible benefits to the common man. This Bill seeks to focus the attention of the masses towards this gigantic task and makes a modest start in this direction.

NEW DELHI;

VIKRAM MAHAJAN

The 6th June, 1973.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for giving of incentives, benefits etc. to persons adopting compulsory family planning scheme. This will involve a recurring expenditure of Rs. two crores annually from the Consolidated Fund of India and also a non-recurring expenditure of Rs. 50 (fifty) lakhs approximately.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The powers given to the Government under clause 6 of the Bill for framing rules for carrying out the purposes of this Act are of ordinary nature.

BILL NO. 41 OF 1973

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1973.

Short
title.

2. In article 371 of the Constitution, in clause (2),—

Amend-
ment of
article
371.

(i) for the words “President may by order”, the words “President shall by order” shall be substituted;

(ii) for the words “any special responsibility”, the words “special responsibility” shall be substituted;

(iii) in sub-clause (b), the words “subject to the requirements of the State as a whole; and” shall be omitted;

(iv) in sub-clause (c), the words “subject to the requirements of the State as a whole” shall be omitted;

(v) after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(d) the proper utilization of the specific plan allocations made by the Planning Commission and the Government of India for Vidarbha and Marathwada.”.

STATEMENT OF OBJECTS AND REASONS

It is well known that the States Reorganisation Commission had unanimously recommended formation of a separate State of Vidarbha comprising eight districts and a population of about a crore of people. However, for political reasons it was ultimately decided by Parliament to include the region of Vidarbha as a part of Maharashtra. At the same time, in order to allay the fears of discrimination and to ensure balanced regional growth, Parliament incorporated an amendment in article 371 of the Constitution which provided, *inter alia*, in clause (2) thereof, for establishment of separate Development Boards for Vidarbha, Marathwada and the rest of Maharashtra with the provision that a report on the working of each of these Boards will be placed each year before the State Legislative Assembly. It also provided for the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole.

In keeping with the spirit of the amendment, the Chief Minister of Maharashtra had made a policy statement in the State Legislative Assembly, that the objective of the amendment will be fully honoured both in letter and spirit.

But during the last 15 years, it has been experienced that taking advantage of the wording of clause (2) of the above article, such as "the President may" and "subject to the requirements of the State as a whole", separate statutory Development Boards were never established, nor was the equitable allocation of funds for developmental expenditure over the said areas made. Similarly, even the policy of dispersal of industry was abandoned. Hence, it is essential to make it mandatory for the implementation of the above statutory provision enshrined in article 371(2), so as to ensure balanced regional growth and to prevent the growth of regional tensions.

Hence this Bill.

NEW DELHI;
The 18th June, 1973.

VASANT SATHE.

BILL NO. 50 OF 1973

A Bill to provide for legal aid to poor citizens and for matters connected therewith.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Free Legal Aid to the Poor Act, 1973.

Short
title.

2. Every citizen whose annual income is two thousand and four hundred rupees or less shall have the right to have free legal aid from the State in case legal proceedings have been initiated against him by a person having an annual income above two thousand four hundred rupees in a civil or criminal case.

Right to
free legal
aid.

3. There shall be set up a Committee in every High Court and the District Court for the purpose of processing applications for free legal aid.

Setting up
of Com-
mittees in
High
Courts
and Dis-
trict Courts.
Advocates
to be mem-
bers of
Com-
mittee.

4. The Committee shall be constituted from among the advocates practising in the respective High Court or the District Court in the manner to be prescribed.

Fee to
members
of Com-
mittee.

Court of
hearing to
appoint
Counsel.

Court of
hearing to
fix the fee
of the
Counsel.

Govern-
ment to
pay the
Counsel.

Power to
make rule.

5. Fee shall be paid to the members of the Committee by the Government in the manner to be prescribed.

6. In the cases recommended by the Committee for legal aid, a counsel shall be appointed by the Court hearing the matter:

Provided that an advocate who is a member of the Committee, set up under section 3, shall not be appointed as a counsel in such cases.

7. The fee of the counsel, so appointed, shall be fixed by the Court referred to in section 6 in the manner to be prescribed.

8. The fee of the counsel shall be paid by the Government after the delivery of the judgment in the case within a period to be prescribed.

9. (1) The Central or the State Government, as the case may be, shall make rules for implementing the provisions of this Act in the territories under their jurisdiction for the purpose of administration of justice.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the constitution of committees in the High Court and the District Courts;

(b) the procedure for processing of applications and making of recommendations for legal aid;

(c) the manner in which the fee to the members of the Committees shall be payable

(d) the manner in which the fee of the counsel shall be fixed;

(e) the manner in which the fee payable to the counsel shall be paid.

STATEMENT OF OBJECTS AND REASONS

Article 14 of the Constitution confers on all persons the right to equal protection of the laws and similarly, article 22 confers the right to consult and to be defended by a legal counsel of their choice.

But so far these rights have been denied to the poor. They simply cannot afford to engage any legal counsel. The fees demanded are prohibitive for them. Many of the accused are convicted or judgments passed against the respondents only because they do not have the money to defend themselves properly.

In a welfare and civilized State, it is the duty of the Government to provide free justice to the indigent citizens. The Bill, thus, seeks to provide free legal aid to the poor who are proceeded against in a civil or criminal case. This will act as a deterrent to the harassment of the weaker sections of the society by the stronger and will ensure fair trial and better administration of justice.

NEW DELHI;
The 27th June, 1973.

VISHWANATH PRATAP SINGH.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of committees for processing applications for free legal aid. Clause 5 provides for payment of fee to the members of the committees. Clause 8 of the Bill provides for payment of the fee to the counsels. An annual recurring expenditure of 2 crore rupees is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about 10 lakh rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill confers on the Central and State Governments power to make rules for implementing the provisions of the Bill when enacted. The delegation of power is of a normal character.

S. L. SHAKDHER,
Secretary.

