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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 6th April, 1979:—

BILL No. 25 OF 1979

A Bill to repeal the Armed Forces (Special Powers) Act, 1958

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

1. This Act may be called the Armed Forces (Special Powers) Repeal Act, 1979.

Short
Title.

28 of 1958,

2. The Armed Forces (Special Powers) Act, 1958 is hereby repealed.

Repeal.

STATEMENT OF OBJECTS AND REASONS

The Armed Forces (Special Powers) Act, 1958 provides power to declare some parts of the country as "disturbed".

By an amendment to the Act, in 1972, through the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972, special powers have been conferred upon members of armed forces in disturbed areas in the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and Union territories of Arunachal Pradesh and Mizoram. The Act, primarily meant to curb the Naga activities, has been used against the Mizos. Parts of Manipur have been disturbed for some years. Entire Manipur State was notified "disturbed" on July 25, 1978.

Section 4 of the Act arms military personnel with drastic powers in disturbed areas. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces has powers to shoot, to kill, to demolish buildings, to arrest without warrant, to use 'such force as may be necessary to effect the arrest' and to enter and search without warrant any premises.

The provisions are immensely drastic and not in keeping with the democratic norms. Any offence committed by any person in the so-called 'disturbed areas' may be punished under appropriate sections of the Indian Penal Code, which are adequate enough to deal with the contingencies.

The existing law smacks of permanent Emergency for North-Eastern India which is predominantly inhabited by the minority ethnic groups. This is an anachronism in our statute book which requires to be removed in the changed political climate.

Moreover, under entry 1 of List II of the Seventh Schedule to the Constitution, public order and the maintenance of public order is the sole responsibility of the State Governments, and it is not proper to have a law, which infringes upon the rights of the States, in our statute book permanently. The Act should be repealed.

This Bill seeks to achieve the aforesaid object.

NEW DELHI;
The 15th February, 1979,

CHITTA BASU

BILL NO. 33 OF 1979

A Bill further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, 1979.

Short,
title.

2. In article 31C of the Constitution,—

Amend-
ment of
article
31C.

(a) for the words and figures “all or any of the principles laid down in Part IV”, the words, brackets, letters and figures “the principles laid down in clause (b) or clause (c) of article 39” shall be substituted;

(b) the words “and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:” shall be omitted.

3. Part XIVA of the Constitution shall be omitted.

Omission
of Part
XIV A.

Amend-
ment of
article
366.

4. Article 366 of the Constitution shall be renumbered as clause (2) of that article, and before clause (2) as so renumbered, the following clause shall be inserted, namely:—

‘(1) In the Preamble to this Constitution,—

(1) the expression “REPUBLIC”, as qualified by the expression “SECULAR”, means a republic in which there is equal respect for all religions; and

(2) the expression “REPUBLIC”, as qualified by the expression “SOCIALIST”, means a republic in which there is freedom from all forms of exploitation, social, political and economic.’

Amend-
ment of
article
368.

5. In article 368 of the Constitution,—

(a) in clause (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that if such amendment—

(a) seeks to make any change which, if made, would have the effect of—

(i) impairing the secular or democratic character of this Constitution; or

(ii) abridging or taking away the rights of citizens under Part III; or

(iii) prejudicing or impeding free and fair elections to the House of the People or the Legislative Assemblies of States on the basis of adult suffrage; or

(iv) compromising the independence of the judiciary; or

(b) seeks to amend this proviso,

the amendment shall also require to be approved by the People of India at a referendum under clause (4)”;’

(b) for clauses (4) and (5), the following clauses shall be substituted, namely:—

“(4) The referendum for the purpose of seeking the approval of the people of India for any amendment of the nature referred to in the second proviso to clause (2) shall be through a poll, and—

(i) all persons who are for the time being eligible to be voters under article 326 at elections to the House of the People shall be entitled to vote at such poll; and

(ii) any such amendment shall be deemed to have been approved by the people of India if such amendment is approved by a majority of the voters voting at such poll and the voters voting at such poll constitute not less than fifty-one per cent. of the voters entitled to vote at such poll.

(5) The superintendence, direction and control of the preparation of the rolls of voters for, and the conduct of, every

referendum under this article shall vest in the Election Commission and the result of such referendum as declared by the Election Commission shall not be called in question in any court.

(6) Subject to the provisions of clauses (4) and (5), Parliament may from time to time by law make provision with respect to all matters relating to or in connection with, referenda under this article, including the preparation of the rolls of voters.”.

6. In the Seventh Schedule to the Constitution,—

Amendment of the Seventh Schedule.

(a) in List I-Union List, entry 2A shall be omitted;

(b) in List II-State List,—

(i) in entry 1, for the words “the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof”, the words “the use of naval, military or air forces or any other armed forces of the Union” shall be substituted;

(ii) for entry 2, the following entry shall be substituted namely:—

“2. Police, including railway and village police.”;

(iii) after entry 10, the following entry shall be inserted, namely:—

“11. Education, including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.”;

(iv) after entry 18, the following entry shall be inserted, namely:—

“19. Forests.”;

(v) in entry 41, for the words “State public services”, the words, figures and letter “State public services subject to the provisions of entry 11B of List III” shall be substituted;

(c) In List III-Concurrent List,—

(i) after entry 11A, the following entry shall be inserted, namely:—

“11B. Adjudication or trial by tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of a State or of a local or other authority subject to the control of a State Government.”;

(ii) entry 17A shall be omitted;

(iii) for entry 25, the following entry shall be substituted, namely:—

“25. Vocational and technical training of labour.”.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Forty-second Amendment) Act was passed with the object of institutionalising the dictatorship. The said amendment Act was a severe blow to the concept of Parliamentary democracy. The distortions caused by the said amendment Act in the Constitution of our country need to be corrected.

Lok Sabha, with that object in view, passed the Constitution (Forty-fifth Amendment) Bill.

The Rajya Sabha in its wisdom made certain amendments in the Constitution (Forty-fifth Amendment) Bill as passed by Lok Sabha. Lok Sabha accepted those amendments. The distortions which crept into the Constitution as the consequence of the Constitution (Forty-second Amendment) Act, therefore, continue to remain. It is felt necessary to erase those distortions at the earliest opportunity.

This Bill seeks to achieve the removal of those distortions.

NEW DELHI;

CHITTA BASU

The 15th February, 1979.

FINANCIAL MEMORANDUM

Sub-clause (a) of clause 5 of the Bill seeks to insert an additional proviso in clause (2) of article 368 of the Constitution. This proviso provides for a requirement as to approval by the people of India at a referendum with respect to amendments of the nature specified therein. According to the amendments proposed in sub-clause (b) of clause 5, Parliament may from time to time by law make provision with respect to the matters relating to, or in connection with, such referenda, including the preparation of the rolls of voters. The holding of a referendum for the aforementioned purposes will involve expenditure. The expenditure which will be involved will depend upon the provisions which Parliament may make with respect to such referenda.

However, as the steps involved in holding a referendum such as the preparation of the rolls of voters, the conduct of the poll, etc., are similar to those involved in general elections to Lok Sabha, the expenditure which a referendum would involve would be approximately the same as that involved in the conduct of general elections to Lok Sabha. On this basis, it is estimated that the expenditure on the preparation of the rolls of voters will be approximately Rs. 7 crores and on the conduct of a referendum will be approximately Rs. 23 crores. In the case of general elections, half of the expenditure on the preparation of the rolls of voters is shared by the State Governments. However, if the rolls of voters are revised and prepared for the purpose of a referendum only, the full expenditure on that account will be borne by the Central Government. Thus, the total expenditure in respect of each referendum is likely to be to the tune of Rs. 30 crores, as a rough estimate. This expenditure will be of a recurring nature as the same will have to be incurred on each occasion when a referendum becomes necessary. Having regard to the nature of amendments which require to be approved at a referendum, the possibility of any such amendments being initiated is very remote. Further, the electoral rolls maintained for purposes of elections to Lok Sabha can be utilised for the purposes of the referendum. If a referendum is held in the same year in which a general election takes place, the electoral rolls will not require much revision and, as such, there will be no expenditure on the revision and preparation of the electoral rolls on such referendum. If, however, the referendum is held simultaneously with the General Elections, the additional expenditure, which would be incurred, will be negligible. The law which Parliament may make with respect to matters relating to referenda will no doubt take into account the various factors which will help in reducing the expenditure on account of referenda. There will be no non-recurring expenditure.

BILL NO. 46 OF 1979

A Bill further to amend the Constitution of India.

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

- | | |
|---|---------------------------------------|
| 1. (1) This Act may be called the Constitution (Amendment) Act, 1979. | Short title, extent and commencement. |
| (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. In article 101 of the Constitution, the following clause shall be inserted at the end, namely:—

“ (5) No House of Parliament shall have the power to expel its members and no resolution to so expel a member passed in a session of the House or a Committee thereof shall render vacant the seat of the member so affected.”. | Amendment of article 101. |
| 3. In article 190 of the Constitution, the following clause shall be inserted at the end, namely:—

“ (5) No House of the Legislature of a State shall have the power to expel its members and no resolution to so expel a member passed in a session of the House or a Committee thereof shall render vacant the seat of the member so affected.”. | Amendment of article 190. |

STATEMENT OF OBJECTS AND REASONS

Members of the House of the People and Legislative Assemblies of States are elected by the people from specified constituencies and they are expected to be in the service of their Houses during their (the Houses) respective terms. In the functioning of the legislatures during the last 29 years, there have been some instances where the ruling parties, out of political motives, got resolutions passed expelling a member belonging to the Opposition from the House. The members so expelled have thus been prevented from serving the House and the people who elected them.

On the question of the such expulsions from membership of a House, the Constitution is silent and the ruling parties have been misusing the position they have been occupying as majority parties. It is also not indicated in the Constitution whether such expulsions of members from the Houses amounted to vacation of their seats. The Court judgements also on such questions have been conflicting.

In the healthy working of the Parliamentary system no expulsion of members from their Houses should be brought about by resolutions sponsored by the ruling parties.

This Bill seeks to achieve this object.

NEW DELHI;
The 21st February, 1979.

K. LAKKAPPA.

AVTAR SINGH RIKHY,
Secretary.

