

भारत का राजपत्र **The Gazette of India**

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EXTRAORDINARY

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PART II—Section 2

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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

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 5th
November, 1982:—

I

BILL No. XXXIV OF 1982

*A Bill to provide for the taking over of the management of the under-
taking of the Indian Tobacco Company Limited for a limited period
in order to secure the proper management of the same.*

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

CHAPTER I

PRELIMINARY

1. This Act may be called the Indian Tobacco Company Limited Short
(Taking Over of Management) Act, 1982. title.

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

(a) "company" means the Indian Tobacco Company Limited,
being a company as defined in the Companies Act, 1956, having its
registered office at Calcutta;

(b) "notified order" means an order notified in the Official
Gazette;

(c) "prescribed" means prescribed by rules made under this
Act;

(d) "undertaking" means the property and assets of the com-
pany;

1 of 1956.

(e) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

THE TAKING OVER OF THE MANAGEMENT OF THE INDIAN TOBACCO COMPANY LIMITED

3. (1) The Central Government may, by notified order, appoint a body of persons (hereinafter referred to as the "Board of Control") to take over the management of the whole or any part of the undertaking or to exercise in respect of the whole or any part thereof such functions of management as may be specified in the notified order.

Board of Control to take over the management of the Company.

(2) The Board of Control shall consist of a Chairman and such number of other members not exceeding ten as the Central Government may think fit, to be appointed by that Government.

(3) The Central Government may either in the notified order issued under sub-section (1) or in a subsequent order specify that one or more members of the Board of Control shall be a full-time member or full-time members thereof.

(4) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board of Control shall be such as may be prescribed.

(5) The salaries, allowances and other remuneration and the conditions of service of the members of the Board of Control shall be such as may be determined by the Central Government.

(6) Any notified order issued under sub-section (1) shall remain in force for such period not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that in order to secure the proper management of the Company it is expedient that any such notified order should continue in force after the expiry of the period of five years as aforesaid, it may, from time to time, issue directions for such continuance for such period, not exceeding two years at a time, as may be specified in the directions, but no such notified order shall in any case remain in force for more than a total period of fifteen years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before each House of Parliament.

4. (1) On the issue of a notified order under section 3 appointing a Board of Control to take over management of the Company,—

Effect of Notified order issued under section 3.

(a) all persons in charge of the management, including persons holding offices as directors or managers or any other managerial personnel of the company immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the Company and any managing agent or any director or any other managerial personnel thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

1 of 1956.

(c) the Board of Control shall alone be entitled notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers of the Board of directors of the company including the powers to sell or otherwise dispose of tobacco or other properties or assets of the company whether such powers are derived from the said Act or from the memorandum or articles of association of the company or from any other source;

(d) as from the date of the notified order, all the properties, assets and effects of the company shall be deemed to be in the custody of the Board of Control who shall, as soon as may be after such date, take all such steps as may be necessary to take into its possession or control all such properties, assets and effects and all actionable claims to which the company is or appears to be entitled.

(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the Board of Control shall take such steps as may be necessary for the purpose of efficiently managing the business of the company and shall exercise such other powers and have such other duties as may be prescribed.

1 of 1956.

5. (1) Notwithstanding anything contained in the companies Act, 1956, or in any other law for the time being in force, or in the memorandum or articles of association of the company, the Board of Control may, with a view to securing the proper management of the company, appoint with the previous approval of the Central Government any individual, firm or body corporate as the managing agent of the company.

Power
of Board
of Control
to
appoint
managing
agent.

(2) The managing agent shall receive such remuneration as may be determined by the Board of Control with the previous approval of the Central Government.

(3) The managing agent shall exercise in respect of the whole or any part of the company such functions of management as may be specified in the order of appointment and as may from time to time be entrusted to it by the Board of Control.

(4) The managing agent shall not be removed from office except with the previous permission of the Central Government.

(5) In the discharge of his functions the managing agent shall be under the general superintendence and control of the Board of Control.

(6) The Management of the company shall be carried on pursuant to any directions given by the Board of Control in accordance with the provisions of the notified order issued under sub-section (1) of section 3 and the managing agent or any other person having any functions of management in relation to the undertaking or any part thereof shall comply with such directions.

6. Without prejudice to the provisions contained in section 4, the Board of Control may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under sub-section (1) of section 3, between the company and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental

Contracts
in
bad
faith
etc. may
be cancelled
or
varied

to the interests of the company, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

No right to compensation for termination of office or contract.

7. Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of sub-section (1), of section 4 or whose contract of management is terminated by reason of the provisions contained in clause (b) of that sub-section, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the company moneys recoverable otherwise than by way of such compensation.

Application of Act 1 of 1956.

8. (1) Notwithstanding anything contained in Companies Act, 1956 or in the memorandum or articles of association of the company,—

(a) it shall not be lawful for the shareholders of the company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed at any meeting of the shareholders of the Company shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of the company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to the company in the same manner as it applied thereto before the issue of the notified order under sub-section (1) of section 3.

1 of 1956.

Power of Central Government to cancel order notified under section 3.

9. If at any time it appears to the Central Government on the application of any shareholder of the company or otherwise that the purpose of the notified order made under sub-section (1) of section 3 has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management of the undertaking shall revert to the shareholders of the company.

CHAPTER III

MISCELLANEOUS

Duty to deliver possession of property and documents relating thereto.

10. (1) Where a notified order has been made under sub-section (1) of section 3 in relation to the company, every person having possession, custody or control of any property of the company shall deliver the property to the Board of Control or to any such person (including the managing agent) as may be authorised by the Board in this behalf.

(2) Any person who, on the commencement of this Act, has in his possession or under his control any books, documents or other papers relating to the Company, including any letters, memoranda, notes or other communications between him and the company shall, notwithstanding

anything contained in any law for the time being in force, be liable to account for the said books, documents and other papers (including such letters, memoranda, notes or other communications) to the Board of Control and shall deliver them up to the Board or to any such person (including the managing agent) as may be authorised by the Board in this behalf.

(3) The Central Government may take all necessary steps for securing possession of all properties of the company.

11. The company shall, within ten days from the commencement of this Act or within such further period as the Central Government may allow in this behalf, furnish to the Board of Control a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Act, and of all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force from such commencement.

Duty to furnish particulars.

12. (1) For the purpose of ascertaining whether any property is the property of the company or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right to—

Powers of inspection.

(a) enter and inspect any premises;

(b) require any person having the possession, custody or control of any register or record of the company to produce such register or record;

(c) require the occupier of any property belonging to, or claimed to be the property of, the company, to submit to the person so authorised such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary; and

(d) examine any person having the control, of or employed in connection with, the company and require him to make any statement touching the affairs of the company.

(2) Any person authorised by the Central Government under subsection (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

13. (1) If any person,—

(a) when required by this Act or by any order made under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, return or other document which he is required by any order made under this Act to submit,

Penalty for false statements.

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) Any person, who—

(a) having in his possession, custody or control and property forming part of the assets of the company, wrongfully withholds such property from the Board of Control, or

(b) wrongfully obtains possession of any property forming part of the assets of the company, or

(c) Wilfully withholds or fails to produce to any person authorised under this Act, any register, record or other document which may be in his possession, custody or control, or

(d) fails, without any reasonable cause, to submit any accounts, books or other documents, when required to do so,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or with both.

Limita-
tion on
prosecu-
tion.

14. No court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Protection
of action
taken
under
the Act.

15. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Board of Control or any member thereof or any other person (including the managing agent) for anything which is in good faith done or intended to be done under this Act.

Overriding
effect
of Act.

16. The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or any instrument having effect by virtue of any, law other than this Act.

Payment
of remun-
eration
and
expenses
out of the
Company.

17. All salaries, allowances and other remuneration paid to the Chairman and other members of the Board of Control, the managing agent or any other person who may be appointed or employed in connection with the affairs of the management of the company and all other expenses duly incurred in connection with such management shall be paid out of the funds of the Company.

Power of
Central
Govern-
ment
to give
direc-
tions.

18. Notwithstanding anything contained in the foregoing provisions of this Act the Central Government may give such directions to the Board of Control as that Government may deem fit for the proper management of the Company and the Board of Control shall comply with such directions.

Power to
make
rules.

19. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification

in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order as occasion requires, do anything (not inconsistent with the provisions of this Act) which appears to it to be necessary for the purpose of removing the difficulty.

Power to
remove
difficul-
ties.

STATEMENT OF OBJECTS AND REASONS

Messers Indian Tobacco Company has capital, more than 50% of which has been taken from Government Undertakings. Although this Company is thus running on Government money, the major portion of its profits is going to private pockets. The management of the Company is earning blackmoney through its selling agents. Huge amounts of arrears of excise duty and income-tax are also outstanding against the Company as it has gone in litigation on one or the other ground. If the management of this Company is taken over by the Government, it will build up the image of Government, Government will be able to meet all the public expenditure by getting at least Rs. 300 crores from the profits of the Company. The private management has been spending too much on its own affairs without looking to the needs of society and the common man. These expenses affect the cost price of the products of the Company which is one of the reasons for price rise of monopoly products.

This Bill is expected to enable Government to control the price of the product of this Company and give more employment opportunities to the people.

Hence this Bill.

RAM BHAGAT PASWAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 authorises the Central Government to make rules for carrying out the purposes of the Bill. Clause 3(4) of the Bill contemplates the making of rules providing for the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board of Control. These are matters of detail and as such the delegation of the legislative power is of a normal character.

II

BILL No. XXXV OF 1982

A Bill to provide for the adoption of the norm of one-family one-job in public services.

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

1. (1) This Act may be called the One-Family One-Job Norm Act, 1982. 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 this Act,— Definitions.
(a) “family” includes one’s spouse, dependant children and dependant parents;
(b) “public employment” means employment in Central Government services, a public undertaking or any other body maintained by funds from the Central Government.
3. The Central Government shall adopt the norm of one-job for one-family and not more than one member from a family shall be provided with public employment. One-job one-family norm to be adopted.
4. The Central Government shall make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

India is a poor country. Even after 35 years of Independence 60 per cent of its population is below the poverty line and on average 10 crore people have to go without meals daily. 80 per cent of the national wealth is cornered by just 20 per cent of the population. There is, thus, great disparity in the distribution of national wealth. The gains of independence have gone to those who are already rich. They have all the resources. The rich are getting richer and the poor, are getting poorer.

It is a fact that education in good schools and colleges as also the higher posts are available to the children of those who own above 100 acres and upto thousands of acres of land. Again it is only these affluent people who own high buildings in cities and villages.

Even the housing schemes which are being run by the Government or by some Housing Boards for the benefit of those who do not own a house, these people manage to get four or five houses allotted for themselves by manipulation. They own cinema houses. Their children are occupying higher posts such as engineers, doctors, etc. in the country and abroad. Again it is they who are in trade and industry and their business is flourishing day by day. Thus each of these families has many sources of income. In this way their wealth is growing.

On the other hand the landless have no source of income. They are poor and homeless. They are unable to educate their children. Consequently their children are without any jobs. They are not able to start any business either. The number of such people is increasing day by day. They have no source of income worth the name. They are living on daily wages and earnings made by seasonal work. The scheme of allotment of surplus land to the landless has also proved futile by the officials. The reason is that the officers responsible for the implementation of the schemes belong to the affluent families. As such bureaucracy is the biggest hindrance in the way of socialism.

The main object of this Bill is that only one person should get job in a family. It will bring about socialism in the country. People will not take to hoarding and blackmarketing. No one will remain unemployed. Increase in wealth will be checked. All will get food, clothes and shelter. All will get equal opportunity for educating their children. It will bring economic and social equality in society. The provision of equality, liberty and fraternity made in the Constitution will only be meaningful when all will get employment. Poverty is the root cause of beggary and other social evils. Therefore, there is need of such a Bill so that the dream of Mahatma Gandhi is realised.

Hence this Bill.

RAM BHAGAT PASWAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Act. These rules relate to matters of detail only. As such, the delegation of legislative power is of a normal character.

BILL No. XXX OF 1982

A Bill further to amend the University Grants Commission Act, 1956.

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

Short
title.

1. This Act may be called the University Grants Commission (Amendment) Act, 1982.

Amend-
ment of
section
5.

2. In section 5 of the University Grants Commission Act, 1956 (hereinafter referred to as the principal Act),—

(i) in sub-section (2), after the words “any State Government”, the words “and is an educationist of national eminence having at least twenty years of academic experience” shall be inserted;

(ii) in sub-section (3), in clause (b) for the words “teachers of Universities” the words “University Professors having at least ten years of experience as such” shall be substituted.

3. In section 12 of the principal Act,—

Amend-
ment of
section
12.

(i) after the existing proviso to clause (c) the following further provisos shall be inserted, namely:—

“Provided further that the Commission shall provide grants to Universities to enable them to adopt uniform salary structure for the teaching and the non-teaching employees as may be evolved by the Commission and to protect the employees against inflation:

Provided also that the per student grant to any University for maintenance and development during a particular year, excluding the initial establishment cost, shall not vary by more than ten per cent. of the actual average per student grant for all Universities taken together for that year:

Provided also that such grants shall be limited to meet the requirements of general and professional education of those colleges, or of those post-graduate departments or centres, which had been established with the prior approval of the Commission in accordance with the national criteria referred to in sub-clause (ccc).”;

(ii) after clause (cc) the following clause shall be inserted, namely:—

“(ccc) evolve and apply uniform criterias for the establishment of colleges for general or professional education or for post-graduate departments or centres of advanced studies or for expanding the existing colleges, departments, or centres with a view to rationalising the facilities for higher education and so as to relate it to the process of planning and development and reduce regional disparities;”.

STATEMENT OF OBJECTS AND REASONS

The University Grants Commission Act, 1956 was enacted to provide for the co-ordination and determination of standards in Universities. However, in the course of time a number of lacunae have been observed. Firstly, under political pressure, colleges have mushroomed all over the country. This unplanned spread of colleges needs to be rationalised in order to reduce the regional disparities and to provide for equal opportunities for higher education in all parts of the country.

Secondly, the University Grants Commission has no say in the opening of new colleges and many a time it is faced with a *fait accompli*. The Commission's pay scales should be made applicable, and its grants made available only to an institution which has been established or expanded after prior approval of the University Grants Commission.

Thirdly, there is a wide disparity in the per student grants to the Universities. The grants are not sanctioned in per student terms but in terms of various schemes evolved by the University Grants Commission. The sum total of the grants to any University should be closed to the national average in per student terms. There is no reason why some Universities should be treated as first class members and the others as second class members of the academic community.

Hence this Bill.

SYED SHAHABUDDIN

IV

BILL No. XXXIII OF 1982

A Bill to regulate and register the marriages of Indian citizens with foreign nationals.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows.—

1. (1) This Act may be called the Marriage with Foreign Nationals (Regulation and Registration) Act, 1982. Short title and extent.

(2) It extends to the whole of India.

2. Notwithstanding anything contained in any custom or personal law or any other law for the time being in force, no citizen of India shall marry a foreign national except with the prior permission of the Board for Marriages constituted under section 3.

3. (1) **The Central Government shall constitute an autonomous Board for Marriages with Foreign nationals in each State consisting of five persons including jurists, theologians or priests and social workers for scrutinising the proposals for marriages and for granting or refusing permission to the solemnization of marriage.** Constitution of Marriage Boards.

(2) The Secretary of the Board shall act as the Marriage Registration Officer for such marriages

(3) The Board shall *inter alia* take into account, the provisions of personal laws applicable to both the parties to the marriage, the relative economic and social status of the parties Indian and Foreign, their age differential the advice of the Government of the country to which the foreign national belongs the views of the Indian Mission accredited to that foreign State and the general terms of the proposed marriage:

Provided that in case of a State in India where an Imarat-e-Sharia is in existence the function of the Board shall be performed by the Imarat-e-Sharia in case the Indian party is a Muslim and accepts the authority of the Imarat-e-Sharia.

Foreign national to deposit an amount for marriage with an Indian citizen.

4. A foreign national shall deposit a reasonable amount, to be determined by the Board in addition to any amount payable under the Personal Law of the Indian partner to the marriage, in the form of an irrevocable fixed deposit in favour of the Indian partner with a Scheduled Bank in India to be paid to the Indian partner in the event of abandonment or irrevocable divorce or irretrievable breakdown of the marriage.

Marriages to be registered with the Marriage Registration officer within four weeks.

5. (1) Every marriage of a citizen of India with a foreign national on solemnisation, shall be registered in the prescribed form by the Indian partner to the marriage or his parent or guardian, duly supported by the person performing the marriage, with the Marriage Registration Officer within four weeks of the date of solemnisation.

(2) Whoever fails to register a marriage shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees.

(3) Any person who acts as a professional intermediary or as a commission agent or abets the performance of a marriage without the permission of the competent authority shall be punishable with imprisonment which shall extend to one year or with fine to which shall extend ten thousand rupees or with both.

Power to make rules.

6. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Overriding effect of the Act.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Of late there have been many instances of foreign nationals, mostly males, marrying Indian citizens on false pretences and later abandoning them with or without divorcing and marrying them to others on payment of consideration. Such marriages, indeed, amount to immoral traffic and constitute/exploitation of Indian womanhood.

The fact that daughters are looked upon as a social burden and some of them remain unmarried upto an advanced age because of prevalent customs, makes the ground fertile for such operators

In many cases, the credentials of the foreign nationals and their capability to maintain their spouses is also doubtful.

In view of this it appears to be imperative that such marriages should be regulated and should be performed only with the prior permission of the Central Government. Such permission should be given normally after due enquiry from the foreign government concerned and the Indian Mission accredited to it.

Such regulation is bound to lead to the outcry that the Government is interfering with the Personal Law applicable to the Indian citizen concerned. The power of regulation may, therefore, in case of duly constituted religious authority, therefore be restored to them.

Admittedly such regulation is bound to cause restraint even in legitimate case. But in view of the prevailing situation, such have to be regulated by suitable legislation both in the interest of the individuals and the society. The Government should, however, see to it that permission in genuine cases is granted expeditiously.

Hence this Bill.

SYED SHAHABUDDIN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Constitution of an autonomous Board for Marriages by the Central Government in each State. There is provision for a Secretary to the Board who shall act a Marriage Registration Officer also besides some other personnel will also be necessary. All this will involve expenditure from the Consolidated Fund of India approximately to the extent of Rs. 1.50 lakhs as non-recurring expenditure and Rs. 3 lakhs as a recurring annual expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made are matters of detail as such, the delegation of legislature powers is of a normal character.

V

BILL No. XXVIII OF 1982

A Bill further to amend the Prevention of Corruption Act, 1947 with a view to applying the provisions of the Act to politicians and making the penalties thereunder rigorous.

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

1. This Act may be called the Prevention of Corruption (Amendment) Act, 1982.

Short
title.

2 of 1947.

2. For section 2 of the Prevention of Corruption Act, 1947 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitu-
tion of
new
section
for
section 2.

2. For the purposes of this Act,—

Defi-
nitions.

(i) "Controlling Authority" shall, in the case of a public servant, mean the appointing authority, or the authority to which the appointing authority has delegated its power; and in the case of legislator, the Presiding Officer of the legislature or the elected body to which he belongs;

(ii) "legislator" means a Member of Parliament or State Assembly or State Legislative Council or the legislative body in any Union territory or any elected body at the district, block or panchayat level;

(iii) "public servant" means a public servant as defined in section 21 of the Indian Penal Code."

45 of 1860

Amend-
ment of
section 5

3. In section 5 of the principal Act.—

(i) in sub-sections (1) and (2), after the words "public servant" wherever they occur the words "or legislator" shall be inserted;

(ii) in sub-section (2) the words "and the pecuniary resources or property disproportionate to his known sources of income and found in his possession shall be confiscated and in case of public servant, he shall be dismissed without any terminal benefits" shall be added at the end;

(iii) the proviso to sub-section (2) shall be omitted.

Insertion
of new
section
5A.

4. Section 5A shall be renumbered as section 5B thereof and before section 5B as so renumbered, the following section shall be inserted namely:—

Declara-
tion of
Assets.

"5A(1) A public servant or a legislator shall, on entry into public employment or public office, submit a statement of the moveable and immoveable property belonging to him or his dependents, irrespective of in whose name it stands, to the Controlling Authority, as on the first day of every calendar year, before the end of the first month of that year.

(2) A public servant or a legislator may also submit a revised statement to the Controlling Authority as and when there is any change in the quantum of moveable or immoveable property of such public servant or legislator or his dependent, as the case may be.

(3) The Controlling Authority shall take due notice and cognizance of the statement referred to in sub-section (1) or sub-section (2) and take action thereon as may be deemed necessary under sections 5 and 5B.

(4) A public servant or a legislator shall be accountable for all his moveable or immoveable property including that pertaining to his dependents.

(5) A public servant or a legislator shall not engage in any *benami* transaction and shall not acquire any property except in his own name or that of his dependents.

(6) A public servant or a legislator shall intimate to the Controlling Authority the acquisition of any property, moveable or immoveable, by purchase, gift or otherwise, whose current value is more than rupees five thousands as well as any transaction of this value entered into by him."

STATEMENT OF OBJECTS AND REASONS

Of late, corruption has assumed a high profile in national life, politics and administration alike. It has become institutionalised. To some extent it has been given social acceptance and credibility and legitimacy. The fact is that the corruption is eating into the vitals of the nation, distorting national purpose and giving rise to islands of affluence and pockets of eliteism in an ocean of poverty through systematic fleecing of the people.

There is no doubt that the fountain head of corruption is not a government servant but a politician. Today they work hand in hand and both need to be brought under control.

Unfortunately the Prevention of Corruption Act, 1947, does not apply to politicians. It is proposed that it should be extended to cover legislators also and in their case the controlling authority should be the presiding officer of the legislature. Secondly, properties, both moveable and immoveable, which cannot be accounted for should be confiscated and the law needs to be amended in that regard. Thirdly, any one in public life or public service should make a public statement about his property and assets on entering into public life or service and such statements should be updated every year. Also all transactions exceeding Rs. 5,000/- should be intimated to the controlling authority.

Hence the Bill.

SYED SHAHABUDDIN

SUDARSHAN AGARWAL,
Secretary-General.

