

**Bill No. XXIII of 2017**

THE CONSTITUTION (AMENDMENT) BILL, 2017

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BILL

*further to amend the Constitution of India*

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short Title  
and com-  
mencement

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

2. In article 75 of the Constitution:—

Amendment  
of article 75.

(i) after clause (1B), the following clause shall be inserted, namely,—

“(1C) A member of either House of Parliament belonging to any political party  
10 against whom a petition for disqualification under the Tenth Schedule is pending  
before the Competent Authority shall not be eligible to be included in the Council of  
Ministers till the disqualification petition is set aside by the Competent Authority:

15 Provided that if a disqualification petition under the Tenth Schedule is filed  
against a member of the Council of Ministers belonging to any political party, the  
competent Authority under the Tenth Schedule shall take its decision within one  
hundred and eighty days from date of filing such petition.”

(ii) after clause (4) the following clause shall be inserted namely,—

"(4A) A member of the either House of Parliament belonging to a political party other than the political party to which the Prime Minister belongs shall submit a written consent from the head of the Political party to which he or she belongs for his or her inclusion in the Council of Ministers to the President before taking oath of office and of secrecy according to forms set out for the purpose in the Third Schedule." 5

Amendment  
of article  
164.

**3.** In article 164 of the Constitution,—

(i) after clause (1B), the following clause shall be inserted namely,—

(1C) A member of the Legislative Assembly of a State of either House of the Legislature of a State having Legislative Council belonging to any political party against whom a petition for disqualification under the Tenth Schedule is pending before the Competent Authority shall not be eligible to be included in the Council of Ministers till the disqualification petition is set aside by the Competent Authority: 10

Provided that if a disqualification petition under the Tenth Schedule is filed against a member of the Council of Ministers belonging to any political party, the competent authority under the Tenth Schedule shall take its decision within one hundred and eighty days from date of filing such petition. 15

(ii) after clause (3) of the Constitution, the following clause shall be inserted namely,—

(3A) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to a political party other than the political party to which the Chief Minister belongs shall submit a written consent from the head of the Political Party to which he or she belongs for his or her inclusion in the Council of Ministers to the Governor before taking oaths of office and of secrecy according to forms set out for the purpose in the Third Schedule. 20

## STATEMENT OF OBJECTS AND REASONS

In a democratic country, the political parties are the integral part. The political parties before the independence had formed with a firm ideology and strong basic principle and any action of any member in the party deviating from its basic principle is considered as anti-party activity. However, over the period the political parties have given go bye to their basic ideology and started changing the principles of the party over the particular issues. Differing from other parties over the basic ideology is not seen in the activities of political parties today and they are ready to mingle with other political parties having exactly opposite ideology, based on issues and circumstances.

In the changing scenario, the members of political parties also changing loyalties over the night and venturing into other political parties particularly in ruling for their personal prospects. The parties in power also concentrating to achieve success by weakening the opposition parties by attracting leaders and cadres from other parties rather than strengthening their own party by doing good to the people.

Though the Constitution was amended to curb this political evil of defection by introducing Tenth Schedule to the Constitution, the new practice to keep pending the disqualification petitions on the grounds of defection by the Chairman or Speaker for years together is undesirable . During the pendency of these disqualification petitions, the defected members are being offered remunerative political posts including post of a Minister apart from Government contracts.

This Bill seeks to further amend Constitution to prohibit these defectors to enter into the Ministerial berths. Further this Bill also seeks to insist a consent letter from the head of the party to include its party's legislator into Cabinet to ensure member's loyalty to the party during coalition Governments. Further, any legislator of party after joining the cabinet ventures to anti-party activities, the party can file a disqualification petition before the competent authority for his disqualification, which the competent authority has to decide in one-hundred and eighty days.

Hence this Bill.

Dr. K.V.P. RAMACHANDRA RAO

RAJYA SABHA

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*(Dr. K.V.P. Ramachandra Rao, M.P.)*