Bill No. XXX of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

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futher to amend the Constitution of India.

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

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2019.

(*2*) It shall come into force at once.

Short title and commencement.

2. In the Tenth Schedule to the Constitution in clause (b) of sub-paragraph (*1*) of paragraph (*2*), after the words "if he votes or abstains from voting", the words "in the No-Confidence Motioin or the Constitution Amendment Bill under article 368 of the Constitution shall be inserted.

Amendment of the Tenth Schedule.

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule of the Constitution makes provisions as to disqualifications for membership of either House of Parliament or the Legislature of the State on ground of defection. Clause (b) sub-paragraph (1) of paragraph (2) provides that a member shall be disqualified for being a member if he votes or abstains from voting contrary to any direction given by the party to which he belongs. The foundational assumptions of Parliamentary democracy of freedom of speech of the right to dissent and of the freedom of conscience must be respected in order to uphold the principles of public policy essential to the working of a representative Government. An elected member shall be freely allowed to express his views on matters in accordance with his conscience, faith and political belief. Even though loyalty towards the plitical party is of utmost importance; the will of the constituents, the personal unbiased opinion and mature judgement shall not be undermined.

Often the view expressed by the Members in the House have resulted in substantial modification, and even the withdrawal of the proposals under consideration. Debates and expression of different points of view, thus, serve an essential and healthy purpose in the functioning of Parliamentary democracy. There might be a conflict between political obligations to the political party sponsoring him which expects and exacts in its own way, loyalty to it and the political morality, will of the people or personal conscience. So far as his own personal views on freedom of conscience are concerned, there may be exceptional occasions when the elected representative finds himself compelled to consider more closely how he should act in a situation where he may feel that the policy of his party, whether it is in office or in opposition, on a particular matter is not one of which he approves. At such times an expression of views during the debate in the House may lead to voting or abstention from voting in the House otherwise than on party lines. Keeping in view the Fundamental principles and values which are basic to the sustenance of the very system of Parliamentary democracy, such voting or abstention should be allowed in normal course. A member shall however be required to follow the directions issued by his political party to which he belongs as a no confidence motion or a Constitution Amendment Bill.

Hence, this Bill.

VIKAS MAHATME

EXTRACTS FROM THE CONSTITUTION OF INDIA

TENTH SCHEDULE

[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

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2. **Disqualification on ground of defection.—**(1) Subject to the provisions of [paragraphs 4 and 5], a member of a House belonging to any political party shall be diaqualified for being a member of the House—

(*a*) if he has voluntarily given up his membership of such political party; or

(*b*) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

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RAJYA SABHA

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further to amend the Constitution of India

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(*Dr. Vikas Mahatme, M.P.*)