

Bill No. XII of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

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BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force immediately on the date it receives the assent of the President
5 of India.

2. In article 200 of the Constitution of India,—

Amendment of article 200.

(i) after the words “Governor shall”, the words “within a period of two months” shall be inserted;

(ii) in the first proviso, for the words “as soon as possible”, the words “within a
10 period of one month” shall be substituted; and

(iii) in the second proviso, after the words “for the consideration of the President”, the words “within a period of one month from the date of receipt of the Bill” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India is dynamic in nature, with the ability to adapt itself to the changing needs of the nation. Democracy and Federalism are the essential features of the Constitution and part of its basic structure.

2. The Governor is established as the *de jure* head of the State and all executive acts are done in his name. However, the Governor is bound by the aid and advice of the elected State Government under article 163 of the Constitution. It cannot be gainsaid that the Governor, who is a ceremonial head of the State, cannot impede the lawful and constitutional functioning of the State Government.

3. Article 200 of the Constitution bestows on the Governor the power to provide assent to the Bills passed by the State Legislature. The Governor can also return the Bill to the Legislature for reconsideration or suggest amendments. However, if the Bill is once again passed by the Legislature, the Governor is bound to give his assent. The Governor is further entrusted with an additional power to reserve a Bill for the consideration of the President. However, the Constitution does not prescribe a time limit for the Governor to assent, withhold assent or reserve the Bill for the consideration of the President.

4. As the Constitutional Head of the State, the Governor owes a responsibility to the people of the State. It is trite in law that any constitutional authority must perform its duties within a reasonable time frame. However, in the recent past, we have seen several instances of Governors holding Bills passed by the State Legislatures for inordinate amount of time, without deciding one way or the other. In some cases, even when *ex-facie* the Bill has to be reserved for the consideration of the President, the Governors have taken a long time to do so. This defeats the will of the people since the State Legislature represents the mandate of the people. All Bills passed by the State Legislature are for the welfare of the people of the State. The State Government's functioning cannot indirectly be curtailed and rendered inutile by the actions of the Governor, a Union Government appointee. That infringes the balance of power between the Union and States established by the Constitution.

5. The absence of a time-limit in article 200 gives the Governor unbridled power to delay the fate of a Bill. Thus, non-prescription of a time-limit is an impediment to the welfare of the people. Thus, the provision must be amended to balance the interest of the people and also provide sufficient time to the Governor to take an informed decision.

6. It is therefore, proposed to amend article 200 of the Constitution to prescribe a time limit to the Governor for providing or withholding his assent to the Bill or reservation of such Bill for the consideration of the President of India.

Hence, this Bill.

P. WILSON

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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200. When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Assent to Bills.

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

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RAJYA SABHA

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further to amend the Constitution of India.

(Shri P. Wilson, M.P.)