

APPENDIX - I

The constitution (first amendment) act, 1951

Object and Reasons

During the first fifteen months of the working of the Constitution, certain difficulties had been brought to light by judicial decisions and pronouncements specially in regard to fundamental rights. Thus, the citizen's right to freedom of speech and expression under Article 19(I)(a), had been held by some courts to be comprehensive as not to render a person culpable even if he advocated murder and other crimes of violence. Again, although the citizen's right, under Article 19(I)(g), to practice any profession or to carry on any occupation, trade or business was subject to "reasonable restrictions" which the laws of the State might impose "in the interest of the general public" and although these words were comprehensive enough to cover any scheme of nationalization which the State might undertake, it was considered desirable to place the matter beyond doubt by a clarificatory addition to Article 19(6). Article 31 had also given rise to unanticipated difficulties for, notwithstanding the provisions of clauses (4)

and (6) of Article 31, the implementation of important measures of agrarian reform passed by the State Legislatures had been held up due to dilatory litigations.

The main objects of the Act were accordingly, to amend Article 19 for the purpose indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The Act also amplifies Article 15(3) so as to ensure that any special provisions that the State may make for the educational, economic or social advancement of any backward class citizens may not be challenged on the ground of being discriminatory. The Act also affects certain amendments in respect of the articles dealing with the convening and proroguing of the sessions of Parliament as also a few minor amendments in respect of Articles 341, 342, 372 and 376.

Text

An Act to amend the Constitution of India

Be it enacted by Parliament as follows:

1. *Short title*—This act may be called the Constitution (First Amendment) Act, 1951.

2. *Amendment of Article 15*—To Article 15 of the Constitution, the following clause shall be added:

(4) “Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward class of citizens or for the Scheduled Castes and the Scheduled Tribes.”

3. *Amendment of Article 19 and validation of certain laws* – (1) In Article 19 of the Constitution,

(a) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form namely:

“(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign

States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”;

(b) in clause (6), for the words beginning with the words “nothing in the said sub-clause” and following shall be substituted, namely:

“nothing in the said sub-clause shall affect the operation of any existing law insofar as it relates to, or prevent the State from making any law relating to,

(i) the profession or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, or any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of Article 19 of the Constitution as amended by sub-section (1) of this section

shall be deemed to be void, or ever to have become void, on the ground only that, being a law which takes away or abridges the right conferred by sub-clause (1) of clause (1) of the said article, its operation was not saved by clause (2) of that article as originally enacted.

Explanation:- In this sub-section, the expression “law in force” has the same meaning as in clause (I) of Article 13 of the Constitution.

4. *Insertion of new Article 31A*—After Article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely:

“31A. *Saving of laws providing for acquisition of estates, etc. –*

(1) Notwithstanding anything in the foregoing provisions of this part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of the Part:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

(2) In this article:

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir, inam or muafi* or other similar grant;

(b) the expression "rights", in relation to an estate shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue."

5. *Insertion of new Article 31B*—After Article 31A of the Constitution as inserted by section 4, the following article shall be inserted namely:

“31B. *Validation of certain Acts and Regulations*— Without prejudice to the generality of the provisions contained in Article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgement, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.”

6. *Amendment of Article 85*—For Article 85 of the Constitution, the following article shall be substituted, namely:

“85. *Sessions of Parliament, prorogation and dissolution.*

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene

between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

Dissolve the House of the People.”

7. *Amendment of Article 87*—In Article 87 of the Constitution

(1) in clause (1), for the words “every session”, the words “the first session after each general election to the House of the People and at the commencement of the first session of each year” shall be substituted:

(2) in clause (2), the words “and for the precedence of such discussion over other business of the House” shall be omitted.

8. *Amendment of Article 174*—For Article 174 of the Constitution, the following article shall be substituted, namely:

“174. *Session of the State Legislature, prorogation and dissolution:-*

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to

meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(a) prorogue the Houses of either House;

(b) dissolve the Legislative Assembly.”

9. *Amendment of Article 176*—In Article 176 of the Constitution,

(1) in clause (1), for the words “every session” the words “the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year” shall be substituted;

(2) in clause (2), the words “and for the precedence of such discussion over other business of the House” shall be omitted.

10. *Amendment of Article 341*—In clause (1) of Article 341 of the Constitution, for the words “may, after consultation with the Governor or Rajpramukh of a State,” the words “may with respect to any State, and where it is a

State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof,” shall be substituted.

11. *Amendment of Article 342*—In Clause (1) of Article 342 of the Constitution, for the words “may, after consultation with the or Rajpramukh of a State,” the words “may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof”, shall be substituted.

12. *Amendment of Article 372*—In sub-clause (a) clause (3) of Article 372 of the Constitution, for the words “two years”, the words “three years” shall be substituted.

13. *Amendment of Article 376*—At the end of clause (1) of Article 376 of the Constitution, the following shall be added, namely:

“Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.”

14. *Addition of Ninth Schedule*—After the Eighth Schedule to the Constitution the following Schedule shall be added, namely:

NINTH SCHEDULE

(Article 31B)

1. The Bihar Land Reforms Act, 1950 (Bihar Act. XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act., 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Pargana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).

8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F, (No. LXIX of 1358, Fasli).
13. The Hyderabad Jgirs (Commutation) Regulation, 1359F, (No. XXV of 1959, Fasli).”

APPENDIX – II

THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1955

Objects and Reasons

Some decisions of the Supreme Court had given a very wide meaning to clauses (i) and (2) of Article 31. Despite the difference in the wording of the two clauses, they were regarded as dealing with the same subject. According to these decisions even where deprivation of property was caused by a purely regulatory provision of law and was not accompanied by an acquisition or taking possession of that or any other property right by the State, the law, in order to be void, had to provide for compensation under clause (2) of the article. It was considered necessary, therefore, to re-state more precisely the State's power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State resulted in "deprivation of property".

The scope of Article 31A also needed to be extended to cover certain categories of essential welfare legislation.

Finally, the judgement of the Supreme Court in Saghir Ahmed v. The State of U.P. had raised the question whether an Act, providing for a State monopoly in a particular trade or business conflicted with the freedom of trade and commerce guaranteed by Article 301, but had left the question undecided. The judgment had given rise to the impression that notwithstanding the clear authority of Parliament or of a State Legislature to introduce State monopoly in a particular sphere of trade or commerce [vide clause (6) of Article 19 as amended by the Constitution (First Amendment) Act], the law might have to be justified before the courts as being "in the public interest" under Article 304(b). It was felt necessary that Article 305 should be amended to make this clear.

The Act accordingly, in the main, amends Articles 31, 31A and 305 and, as a corollary to the amendment of Article 31A augments the Ninth Schedule by the inclusion of some more Acts.

Text*An Act further to amend the Constitution of India*

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:

1. Short title—This act may be called the Constitution (Fourth Amendment) Act, 1955.

2. *Amendment of Article 31*—In Article 31 of the Constitution, for clause (2), the following clauses shall be substituted, namely:

“(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which and the manner in which, the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that compensation provided by that law is adequate.

(2A) Where a law does not provide for the transfer of the ownership or right to possession of any property to the State

or to a corporation owned or controlled by the State, it shall be deemed to provide for the compulsory acquisition or requisitioning of property, notwithstanding that it deprives any person of his property.”

3. *Amendment of Article 31A*—In Article 31A of the Constitution—

(a) for clause (1), the following clause shall be, and shall be deemed always to have been, substituted, namely:

“(1) Notwithstanding anything contained in Article 13, no law providing for,

(a) the acquisition by the State of any estate or of any right therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations or of any voting rights of shareholders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law having been reserved for the consideration of the President, has received his assent," and

(b) in clause (2),

(i) in sub-clause (a) after the word "grant" the words "and in the States of Madras and Travancore-Cochin,

any janman right” shall be, and shall be deemed always to have been inserted; and

(ii) in sub-clause (b), after the word “tenure holder,” the words “raiyat, under-raiyat” shall be, and shall be deemed always to have been, inserted.

4. *Substitution of new article for Article 305*—For Article 305 of the Constitution, the following article shall be substituted, namely:

“305. Saving of existing laws and laws providing for State monopolies:

Nothing in Articles 301 and 303 shall affect the provisions of any existing law except insofar as the President may by order otherwise direct; and nothing in Article 301 shall affect the operation of any law made before the commencement of the Constitution (Fourth Amendment) Act, 1955, insofar as it relates to, or prevent Parliament or the legislature of a State from making any law relating to, any such matter as is referred to in sub-clause (ii) of clause (6) of Article 19.”

5. *Amendment of the Ninth Schedule*—In the Ninth Schedule to Constitution after entry 13, the following entries shall be added, namely:

“14. The Bihar Displaced Person Rehabilitation (Acquisition Land) Act, 1950 (Bihar Act XXXVIII of 1950).

15. The United Provinces Land Acquisition (Rehabilitation of Refugees) Act, 1948 (U.P. Act XXVI of 1948).

16. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (Act LX of 1948).

17. Section 52A to 52G of the Insurance Act, 1938 (Act IV of 1938), as inserted by section 42 of the Insurance (Amendment) Act, 1950 (Act XLVII of 1950).

18. The Railway Companies (Emergency Provisions) Act, 1951 (Act LI of 1951).

19. Chapter III-A of the Industries (Development and Regulation) Act, 1951 (Act LXV of 1951), as inserted by section 13 of the Industries (Development and Regulation) Amendment Act, 1953 (Act XXVI of 1953).

20. The West Bengal Land Development and Planning Act, 1948 (West Bengal Act XXI of 1948), as amended by West Bengal Act XXIX of 1951.”

APPENDIX – III

THE CONSTITUTION (SEVENTEENTH AMENDMENT) ACT,

1964

Objects and Reasons

Article 31A of the Constitution provided that a law in respect of acquisition by the State of any estate would not be deemed to be void on the ground that it was inconsistent with Articles 14, 19 or 31. The expression “estate” had been defined differently in different States. As a result of the transfer of land from one State to another under the scheme of re-organisation of States, the expression came to have different connotations even in parts of the same State. The present Act, therefore, modifies the definition of “estate” in Article 31A and amends the Ninth Schedule by including therein certain State enactments.

Text

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Fifteenth Year of the Republic of India as follow:

1. *Short title*—This Act may be called the Constitution (Seventeenth Amendment) Act, 1964.

2. *Amendment of Article 31A*—In Article 31A of the Constitution,-

(i) in clause (1), after the existing proviso, the following proviso shall be inserted, namely—

“Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.”

(ii) in clause (2), for sub-clause (a), the following sub-clause shall be substituted and shall be deemed always to have been substituted, namely:

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include--

(i) any jagir, inam or muafi or other similar grant and in the States of Madras and Kerala, any janmam right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans".

3. *Amendment of Ninth Schedule.*—In the Ninth Schedule to the Constitution, after entry 20, the following entries shall be added, namely:

21. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Andhra Pradesh Act X of 1961).

22. The Andhra Pradesh (Telengana Area) Tenancy and Agricultural Lands (Validation) Act, 1961 (Andhra Pradesh Act XXI of 1961).

23. The Andhra Pradesh (Telengana Area) Ijara and Kowli Land Cancellation of Irregular Pattas and Abolition of Concessional Assessment Act, 1961 (Andhra Pradesh Act XXXVI of 1961).
24. The Assam State Acquisition of Lands Belonging to Religious or Charitable Institutions of Public Nature Act, 1959 (Assam Act IX of 1961).
25. The Bihar Land Reforms (Amendment) Act, 1953 (Bihar Act XX of 1954).
26. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962), (except section 28 of this Act).
27. The Bombay Taluqdari Tenure Abolition (Amendment Act, 1954 (Bombay Act I of 1955).
28. The Bombay Taluqdari Tenure Abolition (Amendment) Act, 1957 (Bombay Act XVIII of 1958).
29. The Bombay Inams (Kutch Area) Abolition Act, 1958 (Bombay Act XCVIII of 1958).
30. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1960, (Gujarat Act XVI of 1960).

31. The Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat Act XXVII of 1961).
32. The Sagbara and Mehswassi Estates Proprietary Rights Abolition, etc.) Regulation, 1962 (Gujarat Regulation I of 1962).
33. The Gujarat Surviving Alienations, Abolition Act, 1963 (Gujarat Act XXXIII of 1963), except insofar as this Act relates to an alienation referred to in sub-clause (d) of clause (3) of section 2 thereof.
34. The Maharashtra Agricultural Land (Ceiling on Holdings) Act, 1961 (Maharashtra Act XXXVII of 1961).
35. The Hyderabad Tenancy and Agricultural Lands (Re-enactment Validation and Further Amendment) Act, 1961 (Maharashtra Act XLV 1961).
36. The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).
37. The Jenmikaram Payment (Abolition) Act, 1960 (Keala Act III of 1961).
38. The Kerala Land Tax Act, 1961 (Kerala Act XIII of 1961).

39. The Kerala Land Reforms Act, 1963 (Kerala Act I of 1964).
40. The Madhya Pradesh Land Revenue Code, 1959 (Madhya Pradesh Act XX of 1959).
41. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (Madhya Pradesh Act XX of 1960).
42. The Madras Cultivating Tenants Protection Act, 1955 (Madras Act, XXV of 1955).
43. The Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956).
44. The Madras Occupants of Kudiyruppu (Protection from Eviction) Act, 1961 (Madras Act XXXVIII of 1961).
45. The Madras Public Trusts (Regulation fo Administration of Agricultural Lands) Act, 1961 (Madras Act LVII of 1961).
46. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Madras Act LVIII of 1961).
47. The Mysore Tenancy Act, 1952 (Mysore Act XIII of 1952).
48. The Coorg Tenants Act, 1957 (Mysore Act XIV of 1957).

49. The Mysore Village Offices Abolition Act, 1961 (Mysore Act XIV of 1961).
50. The Hyderabad Tenancy and Agricultural Lands (Validation) Act, 1961 (Mysore Act XXXVI of 1961).
51. The Mysore Land Reforms Act, 1961 (Mysore Act X of 1962).
52. The Orissa Land Reforms Act, 1960 (Orissa Act of XVI of 1960).
53. The Orissa Merged Territories (Village Offices Abolition) Act, 1963 (Orissa Act X of 1963).
54. The Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953).
55. The Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955).
56. The Rajasthan Zamindari and Biswedari Abolition Act, 1959 (Rajasthan Act VIII of 1959).
57. The Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (Uttar Pradesh Act XVII of 1960).

58. The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (Uttar Pradesh Act of 1961).
59. The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1956).
60. The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956).
61. The Delhi Land Reforms Act, 1954 (Delhi Act VIII of 1954).
62. The Delhi Land Holdings (Ceiling) Act, 1960 (Central Act 24 of 1960).
63. The Manipur Land Revenue and Land Reforms Act, 1960 (Central Act 33 of 1960).
64. The Tripura Land Revenue and Land Reforms Act, 1960 (Central Act 43 of 1960).

Explanation—Any acquisition made under the Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955), in contravention of the second proviso to clause (1) of Article 31A shall, to the extent of the contravention, be void.”

