

**Bill No. 16 of 2010**

THE CONSTITUTION (AMENDMENT) BILL, 2010

By

SHRI MANISH TEWARI, M.P.

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*further to amend the Constitution of India.*

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

1. This Act may be called the Constitution (Amendment) Act, 2010.

Short title.

2. In the Tenth Schedule to the Constitution,—

Amendment  
of the Tenth  
Schedule.

(i) in sub-paragraph (1) of paragraph 2,—

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(a) for the words "shall be disqualified for being a member", the words "shall cease to be a member" shall be substituted;

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) if he votes or abstains from voting in such House with regard to a—

(i) motion expressing confidence or want of confidence in the Council of Ministers,

(ii) motion for an adjournment of the business of the House, 5

(iii) motion in respect of financial matters as enumerated in articles 113 to 116 (both inclusive) and articles 203 to 206 (both inclusive),

(iv) Money Bill,

contrary to any direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority, and where the Chairman or, as the case may be, the Speaker of such House makes an announcement, as soon as possible, on receipt of a communication from the political party regarding issue of such direction as aforesaid, to the effect that— 10  
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(i) the political party or the person or authority authorized by it has issued a direction in respect of voting in regard to motions mentioned in this paragraph; and

(ii) the defiance of such direction by a member belonging to that political party shall result in automatic cessation of his membership from the House." 20

(ii) after sub-paragraph (I), the following sub-paragraph shall be inserted, namely:—

"(IA) Notwithstanding anything contained in para 1 above, within fifteen days of a member having ceased to be so, he may, for restoration of membership, apply to the Chairman or the Speaker, as the case may be, urging therein the reasons, in justification of his impugned voting or abstention therefrom, and the competent authority shall, within ten days of the receipt of the same, seek confirmation from the political party concerned, whether the said action of the member stood condoned and if the same is received within fifteen days, the membership shall be restored forthwith: 25  
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Provided that in case of non-confirmation or non receipt thereof, the Chairman or the Speaker, as the case may be, shall decide the matter within sixty days." 35

## STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule to the Constitution popularly known as Anti-Defection Law was added to the Constitution by the Constitution (Fifty-second Amendment) Act, 1985.

The 52nd Amendment to the Constitution heralded in an era of healthy parliamentary democracy and sought to put an end to the scourge of political defections that were plaguing our body politic. Since the coming into force of the Act, our parliamentary democracy has taken healthier roots and the entailing punitive provisions contained in the Tenth Schedule have managed to rein in defections to a great extent.

After quarter of a century of the enactment of the Tenth Schedule, it needs certain adaptations and further strengthening so as to be of greater relevance to our democratic process today. As against the need of the hour when the Tenth Schedule was brought in, the debate and voting in Parliament and State Legislatures has matured to such an extent as would merit revisiting some of the provisions of the said Schedule in order to streamline and strengthen them further; albeit without losing sight of its salutary intent and purpose.

At present, the Tenth Schedule to the Constitution provides, *inter alia*, for disqualification of a member if he votes or abstains from voting in the House contrary to any direction issued by the political party to which he belongs to. The Tenth Schedule to the Constitution is lacking in the following two important aspects—

(a) the disqualification of a member of a House should be only on the grounds that if he votes or abstains from voting in the House with regard to a Confidence Motion, No-confidence Motion, Adjournment Motion, Money Bill or financial matters contrary to the direction issued in this behalf by the party to which he belongs to, and in no other case; and

(b) the Tenth Schedule is silent on the issue of disqualification in cases where a political party does not represent against a member who has acted contrary to the direction of the party to which he belongs to, while voting or abstaining from voting in the House, without prior permission of that political party.

It is, therefore, proposed to amend the Tenth Schedule to the Constitution with a view to provide for the following—

(a) a member shall incur loss of his membership only when he votes or abstains from voting in the House with regard to a Confidence Motion, No-confidence Motion, Adjournment Motion, Money Bill or financial matters contrary to any direction issued in this behalf by the party to which he belongs to, and in no other case;

(b) the Chairman or the Speaker of a House shall make an announcement in the House regarding any direction issued by a political party in respect of the aforesaid Motions, Bill or financial matters, as soon as possible, after such direction has been communicated to him by that political party. While making such announcement, the Chairman or the Speaker of House shall also specifically inform the members that the defiance of the direction issued by a political party by any member shall result in automatic cessation of his membership; and

(c) a member shall have the right to appeal against cessation of his membership to the Chairman or the Speaker, as the case may be, within a period of fifteen days from the date of such cessation and the appeal shall be disposed of within a period of sixty days from the date of its receipt by the Chairman or the Speaker of a House.

NEW DELHI;  
February 4, 2010.

MANISH TEWARI

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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[TENTH SCHEDULE]

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

**Provisions as to disqualification on ground of defection**

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Disqualification  
on ground of  
defection.

2. (1) Subject to the provisions of paragraphs 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) \* \* \* \* \*

(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 authorized 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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LOK SABHA

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*(Shri Manish Tewari, M.P.)*