

[AS INTRODUCED IN THE SENATE]

A

Bill

further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of Article 63A of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, in Article 63A, in clause (1), in sub-clause (b), paragraph (iii), shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Article 63A was added to the Constitution by the passage of the 18th Constitutional Amendment in 2010. The main purpose and aim of the 18th Amendment was to restore the Constitution, as far as was practicable, to its original spirit, as envisaged by the framers of the original 1973 Constitution.

Article 63A aims to restrict members of the Parliament or Provincial Assemblies to use their power of voting in certain matters, by making them bound by the decision of the Party Head. This may be necessary in certain matters to make some corrupt parliamentary practices of the past, commonly known as 'horse trading' or 'floor crossing' are discouraged and penalized; and ensure smooth running of both the Government and of Parliament.

However, such restriction on members of Parliament with regards to voting or abstaining to vote on bills relating to a Constitutional Amendment is against the very essence of parliamentary democracy and parliamentary norms.

It is an established custom of parliamentary practice, that a Parliamentarian is only bound by his conscience, when he / she is to exercise his / her vote while enacting laws. A Parliamentarian is not even bound by his / her voters or constituents in this regard.

Article 63A, (b) (iii) gives unfettered powers to political 'Party Heads' and effectively weakens the institution of Parliamentary democracy as envisioned and envisaged by the authors of our Constitution.

SENATOR NAWABZADA SAIFULLAH MAGSI
Member-in-Charge