

AS INTRODUCED IN THE RAJYA SABHA  
ON THE 3RD MARCH, 2006.

**Bill No. VI of 2006**

THE CONSTITUTION (AMENDMENT) BILL, 2006

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BILL

*further to amend the Constitution of India.*

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

Short title and  
commencement.

(2) It shall come into force with immediate effect.

5 2. In article 105 of the Constitution, in clause (2), the following proviso and explanation shall be inserted namely:—

Amendment of  
article 105.

“Provided that the immunity to the members of Parliament under this clause shall not be extended to cover the corrupt acts committed by them in discharge of their duties in either House of Parliament or otherwise.

10 *Explanation.*—For the purpose of this clause, corrupt acts include accepting money or any other valuable gift in consideration of speaking or giving vote or raising a matter in either House of Parliament in a particular manner.”

Amendment of  
article 194.

**3.** In article 194 of the Constitution, in clause (2), the following proviso and explanation shall be inserted namely:—

“Provided that the immunity to the members of the Legislature of a State under this clause shall not be extended to cover the corrupt acts committed by them in discharge of their duties in the House of such a legislature or otherwise. 5

*Explanation.*—For the purposes of this clause, corrupt acts include accepting money or any other valuable gifts in consideration of speaking or giving vote or raising a matter in the House of such a legislature in a particular manner.”

## STATEMENT OF OBJECTS AND REASONS

Article 105(1) of the Constitution provides that subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament. Clause (2) of the same article says that no member of Parliament shall be liable to any proceeding in any court of law in respect of anything said or any vote given by him in Parliament or any of its Committees. Similar provisions are there for members of State Legislatures under article 194 of the Constitution.

The Hon'ble Supreme Court in its judgement in 1998 in the JMM pay off case held that a bribe-taker can claim immunity under article 105 of the Constitution if he has actually spoken or voted as per the wishes of the bribe-giver. As a result what was morally impermissible was made legally permissible. It would have never been the intention of the founding fathers of our Constitution that such a protection shall be given to a person involved in corrupt practices or acts.

The Constitution Review Commission in its report submitted in 2002 observed that such an interpretation of immunity of members of Parliament runs counter to all notions of justice, fairplay and good conduct. It has further been observed that freedom of speech inside the House cannot be used by members to solicit or accept bribes which is an offence under the criminal law of the country and JMM verdict makes it necessary to clarify true intent of the Constitution. Any member of Parliament accepting money or any other valuable gift in consideration of speaking or raising a matter or giving vote in a certain manner in the House should be liable for action under the ordinary law of the land.

The cash-for-question scam which came to light during the last winter session of Parliament in 2005 rocked the roots of the biggest democracy in the world. Therefore, to protect the dignity, honour and respect of the Parliament and its members, it is essential to put it beyond doubt that protection against legal action under article 105 of the Constitution does not extend to cover corrupt acts.

In the UK Parliament, under the advocacy rule, a ban has been imposed by the House of Commons on members lobbying for reward or consideration. It forbids a member to engage in any advocacy that seeks to confer benefit exclusively upon a body from which he has been directly or indirectly receiving a pecuniary benefit. It deals with the same kind of situation that arose in our country in cash-for-question scam.

This situation emerging after JMM case and the recent cash-for-question scam needs to be overcome and hence amendments in the Constitution are inevitable.

Hence this Bill.

VIJAY J. DARDA

# RAJYA SABHA

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*(Shri Vijay J. Darda, M.P.)*