

**Title:** Introduction of the Constitution (Amendment) Bill, 1999. (Amendment of article 58, etc.)

15.44 hrs.

SHRI KIRIT SOMAIYA (MUMBAI NORTH EAST) Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY-SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Sir, my opposition to the introduction of this Bill emanates from the fact of law that it is not within the competence of this House or of the other House to enact an amendment to the Constitution which has the effect of altering its basic features. The Constitution of India, which was the result of hardwork of freedom fighters who had sacrificed the best of their lives for the Independence of this country, who could visualise what the Independent India had to be like, made no distinction between any class of citizens. The most important article of the Constitution, which I would term as article 19, guarantees certain fundamental rights to the citizens. It begins with the following words:

">"All citizens shall have the right to freedom of speech and expression; to assemble peaceably and without arms; to form associations or unions etc."

">The six most important Fundamental Rights which article 19 accords to the Constitution refer to the words "all citizens of India." Ever since the promulgation of the Constitution, it has been working that way. Now, my friend has come forward with an amendment to suggest that the posts of the President of this Country, the Vice-President and that of the Prime Minister should not be held by all the citizens. He wants to exclude a particular class of citizens whom he calls not "natural born citizens." I do not know how he has used the words "natural born citizens." If he has used the words "by birth or by acquisition of citizenship under the Citizenship Act, that is a different matter...(Interruptions)

">SHRI G.M. BANATWALLA (PONNANI): Nobody is artificially born...(Interruptions)

">SHRI PAWAN KUMAR BANSAL : Though the words used are like that, that is not my basic objection. I wish to bring to the notice of this august House the first point that I have made very briefly. Besides, I would like to refer to Rule 294 of the Rules of Procedure and Conduct of Business in Lok Sabha. It talks of the formation of a Committee on Private Members' Bills and Resolutions. It says as to what are the functions of the Committee. The first function of the Committee is as. Rule 294(1) says:

">"The functions of the Committee shall be to examine every Bill seeking to amend the Constitution notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of Business."

">My objection is two-fold. One, that an amendment like this cannot at all be brought about and we are not competent to make an amendment like this which makes distinction between different classes of citizens. The matter does not rest here. The Statement of Objects and Reasons appended to the Bill, as you would appreciate, is always read with the Bill. Please permit me to say that the hon. Member has cast aspersion on the House, on the residents and the citizens of this country. Every day, we hear the hon. Ministers from the other side talking of the ongoing process of liberalisation as if it is the Magna Carta of the country, as if there is nothing beyond that.

">Here, what we find, in the Statement of Objects and Reasons, quite objectionable is the following sentence. I quote:

">"Given the enormous role that money has come to play in the political life of the country, there will be temptations for these corporations to use the power of their money to influence political development in India."

">Then, he berates the foreign print media which has begun, according to him, to make inroads into our country, though, my opinion is, it cannot make any inroads into our country. Then, he says:

">"These developments are fraught with grave consequences for India's sovereignty. Sooner or later, these foreign economic and cultural interests can be expected to make efforts to influence India's decision-makers to formulate policies which may not be in national interest."

">He further says:

">"In the changing global scenario, it will not be beyond the capacity of foreign interests to manipulate a situation to project a person who is not a natural born citizen of the country and whose patriotism may be in doubt."

">He goes on to add further:

">"They hold in their hands decision-making powers which can take the country to wars or make compromises on the nation's security. Any person whose patriotism is untested should not be trusted with the fate of one-sixth of humanity."

">These are the reasons given in the Statement of Objects and Reasons which have motivated the hon. Member to move his Amendment. I have serious objections to these points enumerated here. If any citizen, under the law of the country, contests an election and the people vote him or her to power to represent them in Parliament, then, according to the law, the President has the right to appoint somebody as the Prime Minister. But we know that, according to the system, the leader of the party or the

conglomerate or the alliance, as the present alliance is, which enjoys the confidence or the majority of the House of the People is called upon to be the Prime Minister. The system is working well. There is no reason to doubt or to have some sort of suspicion in the mind excepting some paranoia which may be, in fact, the real reason for a thought like this. That is the first serious objection which I have to this Bill.

">Sir, in our system if we feel that if these three important positions of the country can be excluded from those people who are not citizens by birth for the reasons that we doubt their integrity, commitment and patriotism, how can we have people as the Speaker who is not a citizen of the country by birth or the Chief Justice of India who is not a citizen by birth? This is outrageous.

">SHRI KHARABELA SWAIN (BALASORE): Mr. Deputy-Speaker, Sir, I am on a point of order.

">MR. DEPUTY-SPEAKER: What is your point of order?

">SHRI KHARABELA SWAIN : Sir, Rule 72 (1) says:

">"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, brief statements from the member who opposes the motion ..."

">But he has been speaking for the last 5 to 10 minutes. It is not a brief statement.

">MR. DEPUTY-SPEAKER: He has given notice and I have allowed him.

">SHRI KHARABELA SWAIN : He has given notice. That is all right. But he is making a lengthy speech.

">MR. DEPUTY-SPEAKER: No; it is not a point of order.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Shri Swain, he is arguing his case.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Sir, it has become a lengthy discussion. (Interruptions)

">MR. DEPUTY-SPEAKER : It is not a lengthy discussion; he is arguing his case.

">SHRI KHARABELA SWAIN : There is a provision for full discussion also.

">MR. DEPUTY-SPEAKER: That provision will not apply here.

">SHRI KHARABELA SWAIN :He is saying that it is beyond the legislative competence of the House. If you want, then you can allow a full discussion on this matter, so that we will also participate. It is not that only one Member can speak and others will just listen. I want a ruling from you on this matter. (Interruptions)

">SHRI P.C. THOMAS (MUVATTUPUZHA): Mr. Deputy-Speaker, Sir, he is arguing on the legislative competence. It can be argued and the constitutional propriety can also be argued. (Interruptions)

">SHRI KHARABELA SWAIN :Let hon. Deputy-Speaker allow everybody. We are also willing to put forth our views. (Interruptions) We are prepared for a full discussion on this matter. (Interruptions)

">SHRI KIRIT SOMAIYA : Sir, they are so much afraid and that is why they are raising objections to the introduction of this Bill. (Interruptions)

">MR. DEPUTY-SPEAKER: Hon. Members, Shri Somaiya and Shri Swain, nothing will go on record.

">(Interruptions) \*

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">\*Not recorded.

">MR. DEPUTY-SPEAKER: You must hear me.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Shri Swain, I have asked you to listen to me.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Nothing will go on record.

">(Interruptions) \*

">MR. DEPUTY-SPEAKER: Do not interrupt.

">श्री. रासा सिंह रावत (अजमेर) : जनता ने पिछले चुनाव में यह सिद्ध कर दिया है।

... (व्यवधान)

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">श्री पवन कुमार बंसल : जहाँ आपने यह बात उठाने की कोशिश की, धज्जियाँ उड़ा दीं थीं।

... (व्यवधान)

आपने जगह-जगह आरग्यू करने की कोशिश की है।

... (व्यवधान)

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">SHRI KHARABELA SWAIN : Sir, we are prepared for a discussion. .. (Interruptions) We are willing to argue with him. ... (Interruptions) He goes on speaking for ours. ....(Interruptions)

">PROF. RASA SINGH RAWAT (AJMER): There should be some limitation.

">MR. DEPUTY-SPEAKER: Shri Swain, I have given the floor to him to put forward his case. Then, I will ask the mover to give reply. Thereafter I will follow the other steps.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: I am on my legs.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: This is not the way. This is Private Members" business. Let there be a healthy discussion. Everything should be conducted in a healthy manner.

">Now, let me ask him to conclude. His case is over. Now, I will ask the mover to give reply.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Other hon. Members will not get a chance.

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">\*Not Recorded.

">SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): For your information, I was born in East Pakistan. And I have a right to be in this House under the Constitution of India. ... (Interruptions)

">MR. DEPUTY-SPEAKER: Shri Swain, nothing will go on record. I have to take a serious note of your utterances.

">(Interruptions)\*

">MR. DEPUTY-SPEAKER: What is this?

">श्री. रघुवंश प्रसाद सिंह (बैशाली) : ये नियम के अधीन ही बोल रहे हैं। ... (व्यवधान)

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">MR. DEPUTY-SPEAKER: Shri Swain, I have to warn you.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Prof. Rawat, this is not the way. I have to warn you. Behave yourself well. This is not the way to behave in this House. I am conducting the House. He is putting forward his case. I will ask the mover to give reply. In the meantime, how are you coming forward without my permission?

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Nothing will go on record.

">(Interruptions) \*

">SHRI KHARABELA SWAIN (BALASORE): I have quoted the rule. ... (Interruptions) I have got every right to speak.

">MR. DEPUTY-SPEAKER: You cannot challenge the ruling of the Chair.

">श्री. रघुवंश प्रसाद सिंह (बैशाली) : ये आसन की इजाजत से उसी रूल के अधीन बोल रहे हैं।

">... (व्यवधान)

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">MR. DEPUTY-SPEAKER: Nothing will go on record.

">(Interruptions) .\*

">SHRI P.C. THOMAS : This is a very important hour for the Private Member's business. ... (Interruptions)

">SHRI PAWAN KUMAR BANSAL : I am prepared to show the extent of intolerance like our friends from the other side. ... (Interruptions)

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">\*Not Recorded.

">This brings me to the last point, that is, Rule 294(1). I have cited it earlier also. I submit that in the absence of any Constitution (Amendment) Bill moved or sought to be moved by a Private Member being brought before the Committee, it cannot be introduced.

">It cannot be introduced here, before the Committee on Private Members has had an opportunity to examine the Bill. There is a specific provision for this in Rule 294(1).

">Sir, I would seek your indulgence to this Rule again.

">(1) The functions of the Committee shall be--

">(a) to examine every Bill seeking to amend the Constitution notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business;..."

">Thereafter it has to examine all Bills after introduction, etc. which I am not concerned with at the moment. The Committee on Private Members Bills and Resolutions has not yet been constituted. But this is the secondary objection that I have. My first and the fundamental objection was the constitutional one.

">SHRI G.M. BANATWALLA (PONNANI): It is a very valid point, Mr. Deputy-Speaker Sir. How did this Bill come to us without being examined by this Committee?

">SHRI KIRIT SOMAYA : When the Committee is not in existence, the House gives the permission... (Interruptions)

">SHRI PAWAN KUMAR BANSAL : Sir, I will just conclude by briefly reiterating the two aspects. One is the constitutional aspect and the intention that go with that as is manifest from the Statement of Objects and Reasons appended with the Bill. The second is the bar of Rule 294(1)(a), that is, till the Bill has been examined by the Committee, it cannot be taken up in the House. In view of this, my submission is that the introduction of this Bill has to be rejected.

">SHRI G.M. BANATWALLA : Read sub-clause (d) also.

">SHRI PAWAN KUMAR BANSAL : That will be done subsequently.

">SHRI G.M. BANATWALLA (PONNANI): You just read it.

">SHRI PAWAN KUMAR BANSAL : It says:

">(d) to examine every private member's Bill which is opposed in the House on the ground that the Bill initiates legislation outside the legislative competence of the House, and the Speaker considers such objection prima facie tenable;.."

">But the basic and fundamental thing is the constitutional one.

">श्री किरिट सोमैया : माननीय उपाध्यक्ष महोदय, सम्माननीय सदस्य श्री बंसल जी ने नैचुरल बॉर्न सिटीजन की चर्चा पर ऑब्जेक्शन का प्रारम्भ किया।

... (व्यवधान)

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">श्री जी.एम.बनातवाला : अननैचुरली बॉर्न कौन होगा। सब नैचुरली बॉर्न हैं तो अननैचुरल बॉर्न कौन होगा।

... (व्यवधान)

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">श्री किरिट सोमैया : मैं बताता हूँ ना।... (अंतर्भ्रंश)

">SHRI KHARABELA SWAIN : The United States of America's constitution makers should be asked about it because they have also mentioned about natural born citizen... (Interruptions)

">श्री किरिट सोमैया : मैं शोक नहीं कहूंगा, लेकिन जिनको विदेशी व्यक्ति पर इतना निर्भर रहना पड़ता है, उनको नैचुरली बॉर्न की व्याख्या समझने में थोड़ा समय लगेगा। जब बिल के ऊपर चर्चा का प्रारम्भ होगा, तब मैं आपको नैचुरल और अननैचुरल बॉर्न का फर्क बताऊंगा। अभी १३वीं लोक सभा में जो तीन तरह होकर ११३ चुनकर आये हैं, उनको नैचुरल और अननैचुरल डेथ की भी समझ आ गई होगी, उनके ध्यान में आ गया होगा। अमेरिका का जो कांस्टीट्यूशन है,

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">In that Constitution also it is clearly mentioned

">इसलिए मैंने कहा कि उस बात की चर्चा हम तब करेंगे।

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">The United States of America"s Constitution provides:

">"That no person except a natural citizen or a citizen of the United States at the time of adoption of this Constitution shall be eligible for the post of Office of the President, neither shall any person be eligible to that office who shall have not attained..."

">16.00 hrs.

">MR. DEPUTY-SPEAKER: Shri Kirit Somaiya, he has raised two objections. Firstly he said that among citizens, you cannot discriminate; that will be the violation of the basic structure of the Constitution; and in that case, this House cannot transact this. This is the first point that he has raised. Secondly, he has said that there is a Committee on Private Members" Bills; the screening part and approval are done by the Committee on Private Members" Bills; that Committee is not yet constituted and, therefore, this cannot be transacted here. He has raised these two points. You may kindly mention about those two points.

">श्री किरिट सोमैया : उपाध्यक्ष महोदय, इन्होंने दस बातें अपने ब्रीफ में आब्जेक्शन लेते हुए कही हैं और लगभग सत्रह मिनट उन्होंने भाषण दिया है। इसमें ये दो बिन्दु ही नहीं हैं, अन्य १२ बिन्दु भी हैं, जिनकी व्याख्या प्रारम्भ से ही उन्होंने की है। मैंने प्रारम्भ में ही नेचुरल-बोर्न-सिटीजनशिप के बारे में बता दिया है। यू.एस. कान्स्टीच्यूशन में क्लैयरकट प्रोवीजन है, मैं कोट करता हूँ

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">"The Constitution provides that no person except a natural-born citizen or a citizen of the United States at the time of the adoption of this Constitution shall be eligible to the Office of the President."

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Let him place his case. Why are you interrupting him?

">... (Interruptions)

">SHRI KIRIT SOMAIYA : I would like to give the example of Peru also. Here it says that only natural born Peruvians are eligible for the Office of the President.

">प्रिंसका जन्म हिन्दुस्तान में, हिन्दुस्तान की कोख से हुआ

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">है, गोद में हुआ है, उसको नेचुरल-बोर्न कहते हैं और व्याख्या की है।

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">That is number one. ... (Interruptions)

">SHRI P.C. THOMAS : It should be defined in the Bill. ... (Interruptions)

">SHRI KIRIT SOMAIYA : I have defined it in the Bill. You kindly go through that. It has been clearly mentioned as to what is meant by 'natural-born citizen'. ... (Interruptions)

">दूसरी बात, आब्जेक्ट एंड रीजन्स में भी विवरण दिया है। इसका निरू करते हुए, आपने भी कुछ मूड़े उठाए हैं और कहा है कि एक ओर यह सदन विदेशी संस्थाओं और फारन नेशनल्स के लिए बीजनेस ओपन करने जा रहा है, तो फिर हम इंडियन बोर्न सिटीजनशिप और फारन-बोर्न-सिटीजनशिप में भेदभाव क्यों कर रहे हैं। जब इस पर चर्चा प्रारम्भ होगी, तो कान्स्टीच्यूट एसेम्बली में जो चर्चा हुई है, वह मैं सदन के सामने रखूंगा।

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महोदय, पचास वर्ष पहले जब संविधान को एडाप्ट किया गया, उस समय लोगों को कल्पना भी नहीं थी, उन्होंने सपने में भी नहीं देखा होगा कि महात्मा गांधी की कांग्रेस या महात्मा गांधी के आजाद हिन्दुस्तान में कभी जाकर किसी विदेशी व्यक्ति को प्रधान मंत्री बनाने का प्रयत्न होगा या राष्ट्रपति बनाने का प्रयास होगा। ... (व्यवधान)

श्री जी.एम.बनातवाला : मौलाना आजाद मकका में पैदा हुए और एजुकेशन मिनिस्टर बनें।

... (व्यवधान)

श्री किरिट सोमैया : महोदय, मैंने सिर्फ तीन पदों की बात कही है - राष्ट्रपति, उपराष्ट्रपति और प्रधान मंत्री। मेरी समझ में नहीं आता है कि सौ करोड़ के हिन्दुस्तान में

... (व्यवधान)

SHRI PRIYA RANJAN DASMUNSI : Mr. Deputy-Speaker, Sir, I am on a point of order. ... (Interruptions)

MR. DEPUTY-SPEAKER: Under what section?

SHRI PRIYA RANJAN DASMUNSI : Sir, I am quoting the first page of the solemn declaration of the Constitution of India ... (Interruptions)

MR. DEPUTY-SPEAKER: You have to quote the rule.

SHRI PRIYA RANJAN DASMUNSI : Sir, I am quoting the first page of the solemn declaration of the Constitution of India. Constitution can be quoted for raising a point of order. (Interruptions)

PROF. RASA SINGH RAWAT : But you have raised a point of order.

SHRI PRIYA RANJAN DASMUNSI : Yes, I am raising a point of order.

SHRI KIRIT SOMAIYA Let him say under what rule.

SHRI KHARABELA SWAIN : Under what rule he is raising? (Interruptions)

SHRI PRIYA RANJAN DASMUNSI : The Constitution of India and the Rule Book can be quoted off and on for raising point of order. That is the established rule. Any time I can quote Constitution.

... (व्यवधान)

**प्रो. रासा सिंह रावत : समानता का मतलब यह नहीं है है दुनिया के किसी भी देश का व्यक्ति यहां आकर राष्ट्रपति या प्रधान मंत्री बनने लग जाए।**

... (व्यवधान)

... (Interruptions)

MR. DEPUTY-SPEAKER: That was not relevant.

SHRI KIRIT SOMAIYA : Under what rule?

MR. DEPUTY-SPEAKER: He is referring under the Constitution.

SHRI PRIYA RANJAN DASMUNSI: I am quoting the preamble of the Constitution of India. To quote the preamble, there is no bar. It is always allowed for raising point of order or for any other provision. (Interruptions)

**श्री किरिट सोमैया : महोदय, यह कौन से नियम के अंतर्गत बता रहे हैं। ... (व्यवधान)**

SHRI PRIYA RANJAN DASMUNSI : I am quoting the preamble of the Constitution of India. Without preamble, you cannot read the Constitution of India.

SHRI KIRIT SOMAIYA : Under which rule? Let him quote the rule. He is not giving the rule. (Interruptions)

SHRI KHARABELA SWAIN : Sir, do you think that... (Interruptions)

MR. DEPUTY-SPEAKER: That was irrelevant. You do not ask that question.

... (Interruptions)

MR. DEPUTY-SPEAKER: He is quoting the preamble of the Constitution.

... (Interruptions)

SHRI KIRIT SOMAIYA : Under which rule, he is referring? ... (Interruptions)

SHRI PRIYA RANJAN DASMUNSI : You see rule 294. You read the book. ... (Interruptions)

SHRI KIRIT SOMAIYA Before telling, first you read out the rule. What is the rule?

MR. DEPUTY-SPEAKER: You read out the rule.

... (व्यवधान)

**श्री किरिट सोमैया : महोदय, नियम २९४ में जो कुछ है, उससे प्वाइंट ऑफ आर्डर का कोई संबंध नहीं है।**

... (व्यवधान)

**श्री प्रियरंजन दासमुंशी संबंध है या नहीं है, यह डिप्टी स्पीकर डिसाइड करेंगे, आप नहीं।**

... (व्यवधान)

... (Interruptions)

MR. DEPUTY-SPEAKER: Let me read.

SHRI KIRIT SOMAIYA : It is related to the function of the Committee and he is raising objection. ... (Interruptions)

... (व्यवधान)

**प्रो. रासा सिंह रावत : पहले वाले कैसे पास हो गए।**

... (व्यवधान)

अगर फंक्शन ऑफ द कमेटी की बात करते हैं तो पहले वाले कैसे पास हो गए? वे कैसे स्वीकार हो गए, वे उन्होंने कैसे मान लिए?

... (व्यवधान)

इससे पहले वाले कमेटी के बिना कैसे पास हो गए। इससे पहले वाले सारे बिना कमेटी के पास हुए हैं।

SHRI KHARABELA SWAIN : You cannot refer Constitution of India. Do you mean to say..... (Interruptions) Three Bills have been introduced. At that time, you did not come. Do you know how many Bills have been introduced? ... (Interruptions)

MR. DEPUTY-SPEAKER: I am reading rule 294.

... (व्यवधान)

**श्री किरिट सोमैया : मैंने बिल नम्बर पांच इंट्रोड्यूस किया।**

... (व्यवधान)

It was under the Constitution. You see the Bill listed under Item No.9. It was also for amendment of the Constitution of India.

MR. DEPUTY-SPEAKER: Shri Somaiya, he has only taken objection to one Bill. For other Bills, there is no objection. Therefore, we have taken them.

SHRI KIRIT SOMAIYA : There is no question of objection. You please see the method he has adopted. The Bill listed under Item No.5 is a Constitution (Amendment) Bill. Shri Basu Deb Acharia's Bill is also a Constitution (Amendment) Bill. Bill listed under Item No.12 is also a Constitution (Amendment) Bill.

SHRI PRIYA RANJAN DASMUNSI : We had no objection to them.

MR. DEPUTY-SPEAKER: Shri Somaiya, anybody can object to any Constitution (Amendment) Bill. It is not the Chair's business, if nobody has objected to some other Constitution (Amendment) Bill. He has taken objection only to your Constitution (Amendment) Bill. Now, I have to hear him. I have asked him to read the rule.

... (Interruptions)

SHRI KIRIT SOMAIYA : Sir, I am just requesting him to quote the rule. Which rule is he quoting?

MR. DEPUTY-SPEAKER: There is no need for you to ask. I have to ask him. I am asking him and I am reading the rule. If you are not satisfied, then only I will give and that you can address to me.

... (Interruptions)

SHRI KHARABELA SWAIN : If 14 Bills have already been introduced today and two or three Bills have already been introduced by himself, they were not objected to on the ground that it was not...(Interruptions).

MR. DEPUTY-SPEAKER: Shri Swain, if nobody objects to two or three Bills, then do you want me to block them? If you object on one Constitutional (Amendment) Bill, I have to take note of it. If nobody raises any objection on three, four or any number of Constitution (Amendment) Bills, then I have to withhold them. Then, what are you talking about?

... (Interruptions)

SHRI KHARABELA SWAIN : Sir, are you allowing a full-fledged discussion on this matter? If you feel that it is beyond the legislative competence of this House, then only you can allow a full-fledged discussion.

MR. DEPUTY-SPEAKER: That is what he has raised.

SHRI KHARABELA SWAIN : If you feel, then only you will allow for a full discussion.

MR. DEPUTY-SPEAKER: I have not allowed a full-fledged discussion. He has raised a point of order.

... (Interruptions)

MR. DEPUTY-SPEAKER: I am not allowing anybody to start the discussion. When he was replying, Shri Dasmunsi raised a point of order. I have heard you also, but you could not convince me. I differed with you. I said that there is no point of order. He raised a point of order. So, I am asking him. You just point out if it is a point of order, all right, I accept it, and if it is not, then I will rule it out.

... (Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, both under rule 376 to raise the point of order - I am quoting rule 294 of the Rules of Procedure pertaining to Private Members" Business, to examine the Bills - and also under the guard of article 19 correlated with the Preamble of Constitution of India, I am raising my point of order. to you.

">Sir, besides this, we discuss the nature of the Bill in regard to Constitution amendment to be brought in the House through the Private Members" Business List; unless otherwise objected, nobody will raise. But since that has not been objected and it has not been examined and it is touching very fundamental rights guaranteed by article 19 of the Constitution of India related to this. I will cite umpteen number of rulings in this House which is affecting the very basic declaration of the Preamble of the Constitution of India from which the strength of article 19 of the Constitution of India emanates in the fundamental rights. The Preamble which has been translated into action in article 19 says:

">"Equality of status and of opportunity..."

">To whom, to all citizens until this very Preamble, the very structure and the very right under article 19 for every citizen irrespective of his status is not altered or competent to be altered, this Bill cannot be introduced. That is my submission.

">SHRI KHARABELA SWAIN : Sir, in the Preamble of India, there was no word like `secularism" and `socialism". It was introduced at a later stage. (Interruptions).

">MR. DEPUTY-SPEAKER: Normally, this objection does not arise here. In Private Members" Business, it is not taken up.

">... (Interruptions)

">SHRI A.C. JOS : Sir, you have given ruling on 294, but you have not given a ruling on 295 which he has raised. Rule 295 is very clear. It is succeeded by rule 294. I will quote:

">"At any time after the report has been presented to the House a motion may be moved that the House agrees or agrees with amendment or disagrees with the report."

">MR. DEPUTY-SPEAKER: It is only introduction of a Bill.

">SHRI A.C. JOS : The Committee has not been constituted.

">MR. DEPUTY-SPEAKER: The House itself can take it up when the Committee itself is not constituted.

">श्री. रासा सिंह रावत : इससे पहले के १३-१४ बिल्स अथवा संविधान संशोधनों पर हमने कोई आपत्ति नहीं की। कमेटी का रूल वहाँ भी लागू होता है। जब उन्हें कमेटी ने पास ही नहीं किया, विचार ही नहीं किया तो वे हाउस में कैसे आ गए? हाउस में उन पर विचार हो सकता है और उन्हें स्वीकार किया जा सकता है।

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">You are requested to kindly allow this Bill also to be introduced.

">MR. DEPUTY-SPEAKER: Now let him reply.

">SHRI KHARABELA SWAIN : Sir, I was also reading out rule 294(1). It says:

">"The functions of the Committee shall be--

">(a) to examine every Bill seeking to amend the Constitution, notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business;

">Sir, has this formality been completed with regard to other Bills which have been introduced? There should be a level playing field.

">MR. DEPUTY-SPEAKER: His contention is that there cannot be a discrimination between a naturally born citizen and a citizen who has acquired citizenship. Another point is the one that you have referred to. Have you got my point?

">SHRI KHARABELA SWAIN : Yes, Sir.

">SHRI P.C. THOMAS : Sir, if we have committed one mistake, it cannot be argued that...(Interruptions)

">MR. DEPUTY-SPEAKER: Shri Thomas, I am not going into the merit or demerit of it; I am only saying that this is a separate question. The point that has been raised is about discrimination between a citizen born in India and a citizen who has acquired citizenship here. If that is so, then the basic structure of the Constitution is in question. That is what he has asked and Shri Somaiya has to argue from that point of view.

">SHRI KHARABELA SWAIN : Sir, if you allow me also to speak...(Interruptions)

">MR. DEPUTY-SPEAKER: I am not asking you. He is the Mover of the Bill.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Sir, you have allowed almost a full-fledged discussion...(Interruptions)



">MR. DEPUTY-SPEAKER: Nothing of what Shri Swain says will go on record.

">(Interruptions)\*

">MR. DEPUTY-SPEAKER: I have not asked anybody to participate. It is not a debate. He has raised a point of order, you have also raised a point of order. I have never asked anybody to participate in the debate.

">... (Interruptions)

">SHRI KHARABELA SWAIN (BALASORE): If you have allowed him, you allow me also.

">MR. DEPUTY-SPEAKER: No, I am not allowing you unless and until the Bill is introduced. How can I allow you to participate?

">श्री किरट सोमैया : सम्माननीय उपाध्यक्ष महोदय, यहाँ दो मुद्दे उठाए गए। मैं संक्षेप में अपनी बात कहना चाहता हूँ। बाकी बिन्दुओं पर जब बिल पर चर्चा होगी, तब अपनी बात कहूँगा। पहली बात यह है कि ५० वर्ष पहले जब संविधान की रचना की गई उस समय किसी ने इस प्रकार की कल्पना नहीं की थी।

">... (व्यवधान)

">आप मेरी बात सुनिए। हमने सदन में संविधान में संशोधन करने के लिए सौ से भी ज्यादा प्रस्तावों पर चर्चा की। इनमें से कई मंजूर भी हुए, चाहे वह सैकुलरिज्म की बात हो या सोशलिज्म की बात हो या बैंकों के राष्ट्रीयकरण की बात हो। अनेक ऐसे विषय यहाँ पर पारित भी हुए। जब इस विषय पर सदन में चर्चा होगी उस समय मैं इस विषय पर ज्यादा विस्तार से अपनी बात कहूँगा। इसमें गैर कानूनी कुछ नहीं है। सी विधान में नैचुरल या अननैचुरल सिटिजन्स के अधिकार के बारे में कोई जिज्ञा नहीं है। हाइएस्ट आफिस के तीन पदों के बारे में क्वेश्चन करना संविधान के बिल्कुल विपरीत नहीं है।">

">दूसरी बात यह है कि समिति में चर्चा न होने पर भी पूरा हाउस इस प्रकार का निर्णय लेने में सक्षम है। इससे पहले जब समितियों की रचना नहीं हुई, उस समय भी ऐसे संविधान संशोधन बिल पेश किए गए।

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">

">\*Not recorded.

">न केवल १३वीं लोकसभा में बल्कि सभी लोकसभा में इस प्रकार से इंटेड्यूस किया गया है। इस प्रकार की प्रथा और परम्परा रही है।

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">That is why you must allow me. I would request you to allow me to introduce this Bill.

">श्री रामदास आठवले (पंढरपुर) : उपाध्यक्ष महोदय, यहाँ पर सैकुलरिज्म की बात की गई है, यह किसी कांस्टीट्यूशन में अमेन्डमेंट के माध्यम से नहीं आया है।

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">SHRI KHARABELA SWAIN : Sir, whenever there is a discussion on this, it can only be decided then. Then somebody can challenge it. The Supreme Court can decide whether it comes under the basic features of the Constitution or not.

">SHRI KIRIT SOMAIYA : I have got the point. In the Indian Parliament also, can such type of a Bill be postponed?

">जब लोकसभा की रचना की गई थी तो जो पहला सेशन हुआ, उसमें सब प्रकार के प्राइवेट मेम्बर्स बिल में कांस्टीट्यूशन अमेन्डमेंट अलाउ किया गया है, यह प्रथा रही है। जब

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">IRDA

">बिल आया, उसमें यह बिन्दु उपस्थित हुआ था उस समय भी इसका क्लैरिफिकेशन दिया गया था। यह कांस्टीट्यूशन अमेन्डमेंट बिल है जिसके लिये कांस्टीट्यूशन में अमेन्डमेंट प्रोपोज कर रहे हैं। जब इस सदन की राय जानी जायेगी और आवश्यक मतदान यहाँ होगा, तभी यह अमेन्डमेंट होगा अन्यथा पब्लिक डिबेट होगी। इस सब के लिये मैं आपसे प्रार्थना करता हूँ।

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">MR. DEPUTY-SPEAKER: Let me give my ruling.

">... (Interruptions)

">SHRI M.O.H. FAROOK (PONDICHERY): Sir, I want to know whether all the provisions of the law of the House and the natural process of the law have been gone through or not. ... (Interruptions)

">SHRI KHARABELA SWAIN : This is the Parliament. The job of this House is to legislate. ... (Interruptions) It is for the Supreme Court to decide whether it forms part of the basic feature of the Constitution or not. If anybody thinks that this does not come in the basic feature, he can go to the Supreme Court because the Supreme Court has said it. If it is not the basic feature, let him continue now. This House has got every right to discuss anything. ... (Interruptions) He can go to the Supreme Court. It is the right of the Member to move an amendment. ... (Interruptions)

">MR. DEPUTY-SPEAKER : Let me give my observations.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Let him go to the Supreme Court. ...(Interruptions)

">MR. DEPUTY-SPEAKER : What is this Shri Swain? You go on talking without my permission. You have got this habit. I am sorry. You are a young man. You speak well. Let there be some discipline in the House. You speak with my permission or for that matter anybody who is sitting here should do so. Otherwise how will I control the House? You tell me.

">... (Interruptions)

">MR. DEPUTY-SPEAKER: Shri Ramdas Athawale, I am talking to Shri Swain and you stand up and talk. How to control the House?

">... (Interruptions)

">MR. DEPUTY-SPEAKER: I have to inform the House that the Chair does not decide whether the Bill is constitutionally within the legislative competence of the House or not. The House also does not take a decision on specific question of vires of a Bill. As far as a demand for referring the Bill to the Committee of Private Members" Bills and Resolutions, the Committee has not yet been constituted. There are several precedents when Private Members" Bills were included in the List of Business for introduction without prior permission of the Committee.

">In these circumstances I put the question before the House.

">SHRI PAWAN KUMAR BANSAL : Once an objection is taken, it is a valid thing.

">MR. DEPUTY-SPEAKER : Even in the Committee also, the majority opinion prevails. Therefore, I am taking the opinion of the House.

">SHRI PAWAN KUMAR BANSAL : There is a particular procedure laid down.

">SHRI M.O.H. FAROOK : I want to know whether it has gone through the procedure or not.

">MR. DEPUTY-SPEAKER : Yes.

">SHRI M.O.H. FAROOK : No, it is not.

">MR. DEPUTY-SPEAKER: There are precedents on earlier occasions also. It happened.

">SHRI PAWAN KUMAR BANSAL : I am sure it was not when an objection like this is raised and then a decision is taken.

">MR. DEPUTY-SPEAKER : I am told by the Secretariat that there are instances.

">I take the opinion of the House.

">SHRI PRIYA RANJAN DASMUNSI : Sir, it is a question of ruling.

">श्री रामदास आठवले : उपाध्यक्ष महोदय, श्री सोमैया जी ने जो मुद्दे रखे हैं, उसे ध्यान में रखते हुये कहा है कि सेकुलरिज्म और सोशलिज्म अमेंडमेंट के माध्यम से होगा?

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MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India".

SARDAR BUTA SINGH (JALORE): How can you decide this without a division? The louder voice came from this side. ....(Interruptions) Either you put it to the division ....(Interruptions)

MR. DEPUTY-SPEAKER: Do you want a division?

SARDAR BUTA SINGH : Otherwise, how can you take a decision? Our voice was louder than theirs.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

SHRI KIRIT SOMAIYA : Sir, I introduce the Bill.

SARDAR BUTA SINGH : I am sorry that I kept quiet.

MR. DEPUTY-SPEAKER: Do you really contest?

SARDAR BUTA SINGH :Sir, the people of this country are indivisible. By bringing this kind of a Bill, they are going to create gradation of the Indian citizens which I condemn vehemently.

SHRI PRIYA RANJAN DASMUNSI: Sir, the solemn declaration of the Preamble is being assaulted through the introduction of this Bill.

The solemn declaration in the holy Constitution of India, drafted and prepared by our great freedom fighters, is being assaulted by the introduction of this Bill. ....(Interruptions) Mr. Deputy-Speaker Sir, I would also like to place on record that I was born not in free India, I was born in East Pakistan before the freedom came. I also treat it as an insult to those who took part in the liberation of this country and were born outside India. It is an insult to them also. ....(Interruptions)

MR. DEPUTY-SPEAKER: The hon. Member may move the Bill.

SHRI KIRIT SOMAIYA : Sir, I have already moved the Bill.

... (Interruptions)

MR. DEPUTY-SPEAKER: Now, we come to items numbers 16 and 17. Yogi Aditya Nath--not present.

Shri Uttamrao Patil.

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