

**Title:** Introduction of the Ban on Cow slaughter Bill, 1999.

**योगी आदित्यनाथ (गोरखपुर):** अध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि गौ और गौवंश के वध का प्रतिषेध करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to prohibit the slaughter of cow and its progeny."

I have to inform the hon. Members that Shri G.M. Banatwalla has given notice of his intention to oppose the Bill on the ground that the Bill initiates legislation outside the legislative competence of the House.

SHRI G.M. BANATWALLA (PONNANI): Mr. Speaker, Sir, first of all, I should be taken to have protested and also walked out on the earlier point.

">Sir, I am here to oppose the leave sought for introducing the Bill.

">I must clarify that the Bill is not merely about cow. It includes all the progeny of the cow including bulls, bullocks, buffaloes and so on. Such a blanket ban has been decided as unconstitutional by even the Supreme Court. The Supreme Court, in its judgment in Hashmatullah Versus State Of Madhya Pradesh And Others in 1996 had struck down a similar Bill of Madhya Pradesh. Therefore, the Bill that is there before us today for the purpose of introduction is unconstitutional and ultra vires of the Constitution.

">I have another important matter and that is the Bill is outside the competence of this House to legislate. This House does not have the competence to legislate on this issue. The issue concerns organisation of agriculture and animal husbandry. This appears not in the Union List; it does not appear even in the Concurrent List but the subject matter of the Bill appears in List II of the Seventh Schedule of the Constitution. It is exclusively in the jurisdiction of the States. It is not within the jurisdiction of the Centre and, therefore, it is totally outside the competence of this House to enact such a measure.

">I may remind you that on 1st May, 1954 the Attorney General was called to the House. That was the time when Pandit Jawaharlal Nehru was the Prime Minister. The Attorney-General came to the House and he endorsed the opinion and he advised the House that this subject matter is exclusively in the jurisdiction of the State, it does not come within the Union List; it does not come within the Concurrent List and, therefore, the House does not have the legislative competence.

">This is a very important point. I think you yourself should not have allowed the Bill to come because our own Attorney-General at the time of Pandit Jawaharlal Nehru came here in the House on 1st May, 1954. The matter is there. His entire argument before the House that the matter is outside the competence of this House is there in the Lok Sabha proceedings. I am referring to the proceedings of 1st May, 1954.

">I, therefore, feel the Bill is not only unconstitutional but it is also outside the legislative competence of this House.

">Sir, the legislative competence was decided. My point of view was endorsed. I am holding the same point of view as the Attorney General held and gave his opinion here in the House itself.

">I would also like to draw your attention to Rule 294 Clause 1 Sub-clause (d). Before I read that my first request to you is not to allow this Bill to come for introduction at all and declare it as outside the competence of the House. Sir, in case my prayer is not being accepted by you, then I have to fall back on Rule 294, Clause 1, Sub-clause (d) which says :

">It is for the Committee on Private Members" Bills

">"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;"

">It has to be considered as prima facie tenable.

">Even the Attorney-General came to the House and said that the matter was outside the legislative competence of this House. It is, therefore, very strange that the Members should persist in flying against the opinion of the Attorney-General tendered in this House during the days when Pandit Jawaharlal Nehru was the Prime Minister.

">Sir, I would request you to hold the Bill totally as out of order. In case you do not do so, I would appeal to the hon. member not to press for such a Bill which is outside the legislative competence of the House. Sir, if he also does not yield, I have to appeal to this House to throw away this Bill lock, stock and barrel. It is unconstitutional, it is outside the legislative competence of the House. Even if that is not accepted, let the matter then go to the Private Members" Bills Committee to examine it under the rule which I have quoted.

SHRI KIRIT SOMAIYA (MUMBAI NORTH EAST) Sir, the hon. Member has quoted Rule 294. It is a precedent in the House, in all the previous Lok Sabhas, that until that Committee is formed, all the Bills are allowed to be introduced whether it is a Constitution (Amendment) Bill or any other Bill. My Bill was also objected to last Friday and the House had allowed it to be introduced. So, I do not think that the point which is raised regarding Rule 294 is a proper one. So, the objection raised by him should be over-ruled.  
...(Interruptions)

">MR. SPEAKER: Yogi Aditya Nath.

">SHRI KHARABELA SWAIN (BALASORE): Sir, I have a point to make. ....(Interruptions)

">MR. SPEAKER: No, you have not given any notice.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Sir, I am in support of this Bill. So, I may be allowed to reply his point. ....(Interruptions)

">MR. SPEAKER: No. The mover of the Bill can give the reply.

">Yogi Aditya Nath.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Sir, he can reply ...(Interruptions) I have a very valid point in reply to his objection. ....(Interruptions)

">MR. SPEAKER: No. Shri Swain, please understand that this is introduction stage.

">Yogi Aditya Nath.

">योगी आदित्यनाथ : अध्यक्ष जी, गाय भारतीय संस्कृति और धर्म का प्रमुख आधार रही है। अपनी सरलता और उपयोगिता के कारण गोवंश की महत्ता प्रायः सभी सभ्य देशों में न्यूनाधिक रूप से विद्यमान है। भारत जैसे धर्म-परायण और कृषि प्रधान देश में इसकी महत्ता जन्य और जन्मभूमि के समान लोकवन्दनीय रही है। इस सभी को देखते हुए हमारे संविधान निर्माताओं ने अनुच्छेद 48 में यह व्यवस्था की थी कि राज्य कृषि और पशुपालन को आधुनिक और वैज्ञानिक प्रणाली में शिफ्ट करने का प्रयास करेगा और गाय, बछड़े और दूधारू पशुओं की नस्लों में सुधार लाने का प्रयास करेगा।

">... (व्यवधान)

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">SHRI RAMESH CHENNITHALA (MAVELIKARA): Sir, he is going into the merits of the Bill. Now we are not discussing the merits of the Bill. Shri Banatwalla has raised Technical points and he should reply to them, and not go into the merits of the Bill. ....(Interruptions)

">MR. SPEAKER: Shri Ramesh Chennithala, Shri Banatwalla had raised some points. That is why, he is replying.

">योगी आदित्यनाथ : पहले मैं भूमिका रख रहा हूँ। गायों, बछड़ों और अन्य दूधारू पशुओं की नस्लों के संरक्षण और सुधार, तथा उनका वध निषेध करने के लिए आवश्यक कदम उठायेगा। अध्यक्ष महोदय, पिछले ५२ वर्षों में देश के १०० करोड़ लोगों की भावनाओं का अनादर करते हुए, उनकी भावनाओं को आघात पहुंचाते हुए

... (व्यवधान)

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">MR. SPEAKER: Yogi Aditya Nath, you reply to the objections raised by Shri Banatwalla.

">योगी आदित्यनाथ : अध्यक्ष महोदय, मैं जवाब दे रहा हूँ। इस देश में तृष्ठीकरण की नीति पर चलकर बराबर इस देश में गो-हत्या होती रही है। इस सदन में इससे पहले भी चर्चा हो चुकी है। संविधान के भाग चार में उल्लिखित राज्य के नीति-निर्देशक तत्वों के कार्यान्वयन के लिए बनाया गया कानून इस आधार पर असंवैधानिक घोषित नहीं किया जाएगा कि वह सरकार द्वारा १४वीं, १९वीं और २१वीं धाराओं में दिये गये अधिकारों का उल्लंघन करता है। अतः यदि कोई भी कानून बनता है जिसके द्वारा गाय, बछड़ा और अन्य दूधारू अथवा कृषि उपयोगी पशुओं की हत्या पर प्रतिबंध लगता है, तो प्रदत्त अधिकारों के प्रतिबंध के नाम पर उसे असंवैधानिक घोषित नहीं किया जा सकता है और इस प्रकार ४२वें संशोधन के आलोक में गोवंश वध बाधित विधेयक कोई भी माकूल कानून बनाने का मार्ग प्रशस्त हो गया है तथापि सरकार अभी तक कोई अभीष्ट रूप से विचार करने वाला कानून नहीं बना पाई है।

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">कार्योक्त विभिन्न कारणों से ऐसा करने का कोई साहस जुटा नहीं पाया। ... (व्यवधान)

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">MR. SPEAKER: Yogi Aditya Nath, please understand that this is only an introductory stage.

">योगी आदित्यनाथ : अतः आवश्यक है कि इस महत्वपूर्ण और संबेदनशील प्रकरण के लिए केन्द्रीय कानून बनाया जाए।

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">SHRI KHARABELA SWAIN : Sir, please allow me to react on the point made by Shri Banatwalla.

">MR. SPEAKER: You cannot reply, please take your seat.

">SHRI KHARABELA SWAIN : It is not a question of reply.

">MR. SPEAKER: You have not given any notice.

">SHRI KHARABELA SWAIN : Please allow me.

">MR. SPEAKER: Please take your seat. Shri Swain, please understand that this is not the procedure.

">SHRI KHARABELA SWAIN : He said that this was beyond the legislative competence of this House.

">MR. SPEAKER: Shri Swain, you are not the competent person to reply to the objection. Please take your seat.

">... (Interruptions)

">MR. SPEAKER: Shri Swain, please take your seat. You are not supposed to clarify.

">SHRI KHARABELA SWAIN : During the time of the United Front Government, the same Bill was discussed in this House, though the Bill was defeated.

MR. SPEAKER: I am telling you, please take your seat. You are not supposed to clarify anything.

">I have to inform the House that the Chair does not decide whether a Bill is constitutionally within the legislative competence or not. The House also does not take a decision on the specific questions of vires of a Bill. As far as the demand for referring the Bill to the Committee on Private Members' Bills and Resolutions is concerned, the Committee has not yet been constituted. Bills on the same subject have been introduced in the previous Lok Sabha, at least, on six occasions. Under these circumstances, I put the question before the House.

">The question is:

">"That leave be granted to introduce a Bill to prohibit the slaughter of cow and its progeny."

">The motion was adopted.

">श्री योगी आदित्यनाथ (गोरखपुर) : महोदय, मैं विधेयक पुरःस्थापित करता हूँ।

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