

[Sh. Paban Singh Ghatowar]

(ii) A copy of the Annual; Accounts (Hindi and English versions) of the National Institute of Health and Family Welfare, New Delhi, for the year 1991-92, together with Audit Report thereon.

((iii) A copy of the Review (Hindi and English versions) by the Government on the working of the national Institute of Health and Family Welfare. New Delhi, for the year 1991-92.

(2) Statement (Hindi and English versions) showing reasons for delay in laying the papers mentioned at (1) above.

[Placed in Library. See. No. LT-4198/93]

14.52 hrs.

STANDING COMMITTEE ON RAILWAYS  
SECOND REPORT AND MINUTES

[English]

SHRI SOMNATH CHATTERJEE (Bolpur) : Sir, I beg to present the Second Report (Hindi and English versions) of the Standing Committee on Railways on (a) Doubling of Railway lines; and (b) Metro-railway Project in Calcutta and Minutes of the sittings of the Committee relating thereto.

14.53 hrs.

ELECTION TO COMMITTEE

**Committee on Public Undertakings**

[English]

SHRI BASUDEB ACHARIA (Bankura) : Sir, I beg to move:

"That this House do recommend to Rajya Sabha that Rajya Sabha do agree to nominate a Member from Rajya Sabha to associate with the

Committee of public Undertakings of this House for the unexpired portion of the term of the Committee *vice* Shri Sunil Basu ray retired from Rajya Sabha and do communicate to this House the name of the Member so nominated by Rajya Sabha".

MR. SPEAKER : The questions is:

"That this House do recommend to Rajya Sabha do agree to nominate a Member from Rajya Sabha to associate with the Committee on Public Undertakings of this House for the unexpired portion of the term of the Committee *vice* Shri Sunil Basu Ray retired from Rajya Sabha and do communicate to this House the name of the Member so nominated by Rajya Sabha".

*The motion was adopted.*

14.54 hrs.

CONSTITUTION (EIGHTIETH AMENDMENT) BILL\*

AND  
REPRESENTATIONS OF THE  
PEOPLE (AMENDMENT) BILL\*

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN) : Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

MR. SPEAKER : Motion moved:

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

THE MINISTER OF STATE IN THE MIN-

ISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : Sir, I beg to move for leave to introduce a Bill further to amend the Representation of the People Act, 1951.

MR. SPEKAER : Motion moved:

"That leave be granted to introduce a Bill further to amend the Representation of the People Act, 1951".

SHRI LAL K. ADVANI (Gandhi Nagar) : Mr. Speaker. Sir, the Home Minister has sought leave of the House to introduce Eightieth Amendment of the Constitution. The Minister of State for Law and Justice has sought leave of the House to introduce a Bill to amend the Representation of the People Act, 1951. There is a difference between the two. But they are supposed to be inter-related. After going through both the Bills, I found some of the provisions of the Eightieth Amendment extremely objectionable. whereas in the case of the Amendment to the Representation of the People Act, 1951, I have serious objections.

I hold that if the Eightieth Amendment becomes law. it is fraught with very dangerous consequences for democracy and the fairness of elections. Till now, the impression created by various statements from the Government spokesman seemed to suggest something else. My party also has reacted to those statements, but when I got this particular Bill, I was surprised to find that if this bill becomes law, the consequences would be that a Returning Officer for the Lok Sabha or the Assembly elections would be vested with far greater discretionary authority than today is with the Election Commission or is even with the High Courts.

I would like to point out very particularly Clauses 4 and 5 of this particular Bill which Shri Chavan has sought leave to introduce. Clause 4 of the Bill seeks to amend Article 102 of the Constitution. Now, I wish to draw the attention of the House to article 102 of the Constitution of

India.

It is that Article of the Constitution which lays down disqualification's for being chosen as a Member of Parliament. I read Article 102:-

" 1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder; (b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent; (d) if he is not a citizen of India.

I have pointed out the specific content of it to emphasise that the four disqualifications laid down till now are disqualifications of a nature which are objectively determinable on the basis of facts. It is, therefore, not surprising that this Parliament in its wisdom when it framed the Representation of People Act empowered the Returning Officer in the Lok Sabha or in the Assembly elections to decide whether any candidate is of unsound or not, whether any candidate is an undischarged insolvent or not, or whether any candidate who has filed his nominations is not a citizen of India or has acquired citizenship of another country.

These are facts which we can determine and at the most he may give 24 hours notice to the person concerned who has objected or to the candidate himself to reply. But the whole process of scrutiny that the Returning Officer undertakes is a summary process. It is not an elaborate procession in which evidences can be adduced.

Section 36 of the Representation of People Act gives this power to the Returning Officer to decide whether the candidate suffers from any disqualifications under Article 102 or not.

[Sh. Lal K. Advani]

deciding.

The Bill sought to be introduced today says that in Article 102 of the Constitution, Clause 1, after sub-Clause (b), the following sub-clauses shall be inserted—and the first one gives the impression that this is supposed to be directed against us—and it says:-

“If he, after making and subscribing the oath or affirmation, in accordance with the form set out for the purpose in the Third Schedule for election for Parliament, makes use of religion including religious symbols for the purpose of the said elections”.

This is something about which I will argue at length when we later consider this matter. But I would like to draw the attention of the entire House to the next sub-clause:-

“If he promotes or attempts to promote feelings of enmity or hatred or ill-will between different classes of citizens of India on the ground of religion, race.”

SHRI A. CHARLES (Trivandrum): I am on a point of order. Under Clause 72 of the Rules, I wonder whether a detailed discussion can be taken up at the initial stage of the presentation of the Bill:-

“Provided that where a motion is opposed on the ground that the Bill initiates discussion outside the legislative competence of the House.”

SHRI LAL K. ADVANI: Then there has to be a full discussion.

SHRI A. CHARLES: Is such a full discussion allowed under Article 72 is my point.

MR. SPEAKER: This is an important Bill and a Member like Shri Lal K. Advani is speaking. I would rather like to hear him before

SHRI A. CHARLES: Every Member is equal.

MR. SPEAKER: My respect for you is more than for Shri Lal K. Advani. Let me hear him.

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Shri Lal K. Advani is allowed to quote his objection before the House. On the day the objections are given, the other members may like to give their objections. Detailed discussion may ensue.

MR. SPEAKER: Not very detailed discussion, but brief discussion.

SHRI VIDYACHARAN SHUKLA: I am only requesting you to ensure brief discussion now. When the Bill is taken up for discussion, you can give as much time as you like.

SHRI LAL K. ADVANI: I am grateful to you for allowing me to take up discussion even though Rule 72 says that a bill can be objected to at the introduction stage on any ground.

15.00hrs.

In that case, whosoever gives notice, he is permitted to speak but no one else is permitted to speak. Another colleague to mine raised an objection saying that it is beyond the legislative competence of this House. If that objection is raised, then there has to be a full discussion. This is the sum and substance of Rule 72. In this particular case, I would like to point out that I regard this particular Bill as fraught with very dangerous consequences for democracy. Therefore, I have confined my objections to Clause 4 because Clause 5 is analogous. It refers to the State Assembly. I will not dwell on that at length. I will only deal with Clause 4 though there are provisions like Clause 2, almost which I may observe that I am in full agreement with that there

should be a provision saying that the State shall have equal respect for all the religions. There is this particular confusion in the minds of some people that when we commit ourselves to a secular State, it means an irreligious State or an anti-religious State. This is now being obviated completely even in writing. The Constitution itself says that the State shall have equal respect for all the religions. At the moment, I would confine myself to the point: how can a Returning Officer, in the course of a summary scrutiny of nomination papers, decide whether a particular candidate has even attempted to promote feelings of ill-will between different classes of citizens on grounds of religions race, caste, community or language? You just consider the implications.

Sir, here are my friends from the DMK, AIADMK, my friends from Maharashtra or from some other place where that particular andolan has been going on in the past that some sort of a preference should be given. to seems to the soil. Only because a particular person believes that the backward classes of the country should be promoted and they should be given reservation benefit, some one can object and say that he is creating ill-will between the forward classes and the backward classes. Some one can say that in Tamil Nadu, so and so party is creating that ill-will between the Hindi-speaking people and the non-Hindi-speaking people. I can point out so many such things to you. Even today the Representation of the People Act does bar creating ill-will. Here is the corrupt practice defined under the Representation of the People Act which says:-

"The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his electio agent for the furtherance of the prospects of the elections of that candidate or for prejudicially affect-

ing the election of any candidate is the corrupt practice."

So, this law is there. I would never object to it. I think this is a sound law. But this law is a basis for the high Court to decide whether a particular candidate has really violated this law or not. This is not entrusted to the Returning Officer to decide even before an election whether a particular candidate, because of his past, because of his participation in some movement, is liable to be disqualified on that account. Therefore, I feel that either it is hasty legislation hasty drafting or it is deliberately done because it is partisan. Therefore, It is ill-conceived drafting. So, I feel that this particular Bill as has been drafted today, should not be introduced at all. You please re-frame the Bill. Please have consultations with all the parties and then come before the House with a proper Bill. Because both the Bill are taken up together, I would briefly refer to the Amendment proposed to the Representation of the People Act. (*Interruptions*)

DR. KARTIKESWAR PATRA (Balasore): Sir, I want to seek some clarifications from the hon. Member. I may be allowed to seek some clarifications. (*Interruptions*)\*

MR. SPEAKER: This is not forming part of the record.

(*Interruptions*)

MR. SPEAKER: Dr. Kartikeswar Patra, I will allow you, at the time of discussion, for a long time.

SHRILAL K. ADVANI: Let me deal with the Bill sought to be introduced by hon. Law Minister Shri Bhardwajji. I was a member of the Committee the Dinesh Goswami Committee which had occasion to review the implication of bringing in Section 29(a) it is Section 29(a) which is sought to be amended today. Section 29(a) of the Representation of the people Act requires that all political parties should be registered with the Elections Commission. Now this Committee on

[Sh. Lal K. Advani]

which I had the occasion to serve and my colleague Shri Somnathji was there, Shri Indrajit was there, the former Chief Election Commissioner Shri S. K. Shakhder was there, Shri L. P. Singh was there and apart from that Shrimati Rama Devi who is now the Secretary-General of Rajya Sabha was there and Shri H. K. L. Bhagat. Shri Bhagat did not agree with this particular recommendation. But the recommendation of the Committee was that Section 29 (a) which provides registration of all political parties and for that registration they had to say that we subscribe to secularism, we subscribe to socialism, we subscribe to democracy, this particular provision has served no purpose and so should be scrapped. This was the recommendation of the Committee on which myself, Shri Somnathji and Shri Indrajit from this House were there. Shri Indrajit Gupta was, perhaps, not there but his colleague Shri Homi Dajee was there. Apart from Shri Bhagat, who in also most all cases was not in a position to identify himself with the recommendations mainly on the ground that his party had not decided. But rest of the Committee felt that this particular provision should go. Instead of that, you are trying to strengthen it today, strengthen it by but providing not merely registration, by providing de-registration also and that de-registration authority you want to give to some body, in this case happily the high court. High courts is being made an ideological ombudsman to decide whether a particular party is really carrying on its activities in accordance with this commitment.

Now I do not know how a particular High Court would react to an application made to that High Court saying that after Shri Manmohan Singh has become the Finance Minister, the Congress party has not been following socialism, I do not know how the high court will react. You may think only in terms of saying that they would go and seek de-registration on the ground that BJP is not subscribing to secularism. Though my party repeatedly has said that it is unequivocally committed to the secular ingredients of the

Indian Constitution. Similarly, someone will go and say that Marxist does not believe in democracy. What I am saying is that it would be basically wrong for political parties to have their activities subjected to any kind of ombudsman of this kind, an ideological ombudsman. The whole concept is wrong. And this concept has emerged from your conception, how do we prevent Indian politics from moving in a certain direction. I would deal with that on a separate plane. But at the moment I would say that the Bill as drafted is absolutely ill-conceived. It can undermine democracy. After all, the returning officer for a Lok Sabha is an official of the level of the District Magistrate, the returning officer of a State Assembly election is of the level of a Tehsildar. We are entrusting to these people the right to decide whether Mr. Bhardwaj or Mr. Chandrajit Yadav or Mr. Paswan or Shri Vajpayee had in the past been doing something which does not speak of an election, it is a disqualification. And that disqualifications is: so and so is of unsound mind, disqualified, so and so is an undischarged insolvent etc. I can understand that can be proved. But so and so has been trying to promote ill-will among the communities on the basis of caste, on the basis of language and on the basis of religion is not something which can be decided by a Returning Officer in a summary examination.

Are you going to empower the Returning Officer to do this? And if the house agrees to that, I think we will be spelling the death-knell of democracy in this country. Any party that can come into power, can abuse it to an extent which is inconceivable. And, therefore, I would again plead with this Government not to move this Bill today; reconsider it after taking the parties' view into consideration, discuss it with us and then only move this Bill. Thank you, Sir.

[Translation]

SHRI GEORGE FERNANDES: Mr. Chairman, Sir, I have also given a notice to the effect that I would like to oppose this Bill at its introduction stage. I would like to oppose this Bill mainly

on two points

with me

[English]

MR SPEAKER If I give the chance to an hon. Member who has not written to me saying that he opposes, then, this discussion will go on

MR SPEAKER I have to make two requests One is, your notices should not be in hand-writing because you write very fast And second is

[Translation]

SHRI GEORGE FERNANDES I have given it in writing I have put a handwritten notice in the box at 9 00 A M

SHRI GEORGE FERNANDES The box is opened at 10 o'clock but, not prior to 10 o'clock

[English]

MR SPEAKER I am sorry

SHRI GEORGE FERNANDES Sir, I came to Parliament House today at 9 o'clock because my party's meeting was there at 9 30 a m And I dropped it at 9 o'clock

MR SPEAKER The fault is ours and not yours

[Translation]

SHRI GEORGE FERNANDES Mr Speaker, Sir I was saying that firstly I would like to oppose this Bill for its legislative incompetence and secondly I would like to oppose it in the light of its ineffectiveness and other related issues

MR SPEAKER I am not objecting even if it has come after 10 o'clock

[Translation]

SHRI GEORGE FERNANDES Then how did such a mistake occur? You have said that it has come after 10 00 o'clock

MR SPEAKER, I will tell you the difficulty Most of the notices written by you are in hand and they come at the last moment And when they are given in the office, they are processed through the office It takes some time

SHRI GEORGE FERNANDES I dropped it in the locked box outside the Notice Office at 9 sharp

MR SPEAKER It has been processed But, I am sorry

SHRI GEORGE FERNANDES There was even a witness when I dropped it there He was a constable and he came and shook hands

Mr Speaker, Sir, I am of the view that this is the most dangerous Bill ever introduced in this august House. On the pretext of communalism, an attempt is being made with the help of this Bill, not only to murder the democracy but also to change the basic structure of the Constitution and to deprive the suppressed down-trodden and backward classes of the country of their constitutional rights

Mr Speaker Sir although this bill has two or three parts yet you will find in its first part

[English]

Under Clause (3) it has been stated that

"In part III of the constitution after Article 35 the following Article shall be inserted namely - 35A Notwithstanding anything in this Constitution,—

"Notwithstanding anything includes Fundamental Rights that are guaranteed by the Constitution "Notwith-

[Sh. George Fernandes]

[English]

standing anything in the Constitution” means chapter 16 and Chapter 17.

[Translation]

The concept of social justice has been dealt with in the chapter 16 and 17. Chapter 16 relates to the protection given to the Scheduled Castes and the Scheduled Tribes in the Legislatures. Lok Sabha, Government services and in other fields. Moreover, it also deals with the protection of the other backward classes - educationally and socially backward classes. It also provides the setting up of a Backward Classes's Commission by the President and implementation of its report. All things are covered in Chapter 16. You are stating that

[English]

Notwithstanding anything in this Constitution

[Translation]

Chapter 17 relates to language Mr. Speaker, Sir, linguistic problem is yet to be solved in India. Till now we use English, a symbol of slavery in parliament, in Courts and in Public life. This language is used in the courts also where the poor people of the country go. 50 to 60 per cent people of the country cannot read or write any language. There poor people are subjected to exploitation through language irrespective of their community or religion. There is no other country in the world where people are exploited with the help of a language which is a symbol of slavery. Mr. Speaker, Sir, there have been and will continue disputes on this issue.

[Translation]

And many more things have been added in the Bill which have nothing to do with communalism. I will quote two sentences to clarify it.

“Parliament may, by law, provide that any association or body of individuals be banned, if it, by words, either spoken or written, or by signs or by visible promote disharmony or feelings of enmity, hatred or ill-will between different classes of citizens of India-”

[Translation]

They are all bent upon ruining the Constitution of India. The achievements made by the people before or after the independence are hard earned. Plot has been hatched to undo all such achievements by adding this single sentence. If you go through the next clause, which reads” as follows:

[English]

“ (i) on ground of religion’ or

((ii) on ground of race, place of birth, residence, language, caste or community;”

[Translation]

Chapter 16 and 17 describes caste, place of birth, residence and thereafter comes community. In the clause a reference has been made about hatred, but the intention becomes clear when it is said.

“the law referred to in clause (a) may make provisions for the forfeiture of property, movable or immovable, of the banned association of union....”

[Translation]

What is this Union? Does it mean trade union? Generally in India, the word ‘Union’ means a Trade Union. There is Scheduled Castes and Scheduled Tribes associations in the railways, then there are association of Government employees, of Members of Parliament

and in all the other Departments Structure of Indian society is such that it will continue to oppose all irrational, illogical laws and will continue to oppose all injustices through organizational methods Intentions of the Government are never clear If I say that some or an employer is bad or rogue, I will before that

[English]

I am creating ill-will between two communities or two classes

[Translation]

Here both the words have been used Whenever the employer approaches the Court the association is banned and the office of the association is scale a by the Home Ministry This law has been brought forward by a man of dubious mind We have seen, how TADA, MISA AND NSA were implemented Earlier we enjoyed the right to ap-pear and my Union could have fought for my rights We could have vehemently opposed the arrest of workers under NSA TADA or any other law However, now all our rights are being vurbed At present, I will not discuss each and every sentence of the Bill as I intend to put forth only my basic view point Election issue is also none different The whatever Shri Advani is has said, are correct in their own place Therefore I do not want to repeat the same thing This law challenges Article 13(2)

[English]

"The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void "

[Translation]

This law overrides the fundamental

rights This law challenges Article 15

[English]

"The State shall not discriminate against any citizen on grounds only of religions, race, caste, sex, place of birth or any of them "

Today, there is discrimination, Discriminations a part of India-social , political and economic life

[Translation]

The State intends to usurp all the powers so that discrimination could continue This law challenges Article 16 (4)

[English]

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State "

[Translation]

I will be gagged any my organisation will be banned for raising voice against injustice This law challenges article 25

[English]

"Subject to public order morality and health and to the other provisions of this part all persons are equally entitled to freedom of conscience and the right freely to profess practice and propagate religion

[Translation]

Further it contravenes part-II article 26 and article 30



[Sh. George Fernandes]

[English]

"All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."

[Translation]

Suppose a minority community in a village intends to build a school or hospital etc. for the community, permission could be denied on the ground that it may arouse communal passions. It also contravenes article 46, and I would like to specifically draw attention towards this aspect.

[English]

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and forms of exploitation."

[Translation]

The word used is exploitation. How can one fight exploitation. It can be done through association. Permission may not be given as it might arouse passions. I would any like to submit that had this law been enacted 19 years ago, then we would not have mustered courage to struggle for the implementation of the Mandal Commission. Our struggle would not have been tolerated. This law will take us in the reverse gear and we will never achieve social justice and end exploitation. If communalism is to be fought, then there has to be distinction between communalism and religion. Communalism and fanaticism is one thing and religion is another thing. Dr. Lohia used to say:

[English]

"Religion is long term politics and politics

is short term religion."

[Translation]

Religions is connected with morality. We will not allow curbing of various rights enshrined in the Constitution in the name of the religion. I am against making such a provision in the law. I urge the Government to withdraw it. If communalism is to be fought, then take into confidence the leaders of all the parties. We lend all support to the Government in checking communalism but we cannot tolerate curbing our rights. With this, I oppose this Bill.

[English]

SHRISOMNATH CHATTERJEE (Bolgpur): Sir, so far as the objective of the Bill is concerned, it is very clear. It is not a routine Bill. The Bill is of great importance, especially in the context of the present situation in the country. It is predominately and solely for the purpose of separating religion from politics. That is what we understand. We have been demanding such a Bill; a such a law in this country. The Government, I believe, is committed to that.

may I make a respectful suggestion to everybody? We are not passing the law or amending the Constitution today. It is a matter of vital importance. I will request the Home Minister to agree to send the Bill to Select Committee within a time-frame so that we can consider and finally pass the Bill in this session. (Interruptions) Certainly, everybody will have an opportunity to make suggestions for rectification. (Interruptions)

SHRI RAM VILAS PASWAN (Roserea): We support delinking of religion from politics. However in the guise of all this rights of the weaker sections and the backward classes cannot be curbed. This bill purportedly intends to fight communalism but many other things have also been included in it. Banners imposed on four organisations. Out of these 3 organisations have come out of it. Yet ban is in

force on Jamiat-e-Islami That is why in the name of the weaker sections and the backward classes, much damage will be done, I have given the notice to refer the Bill to the Select Committee All the leaders of various parties should have been taken into confidence before introducing this Bill No wrong message should go to the masses, Therefore, on behalf of Janata Dal, I would like to submit that the Bill to delink religion from politics should not be introduced in this form

[English]

SHRI INDRAJIT GUPTA I think, at this stage we are not supposed to enter into a detailed discussion of the provisions of any Bill

MR SPEAKER You are right

SHRI INDRAJIT GUPTA At the introduction stage, you are permitting

MR SPEAKER No I am allowing only those who have given the notices (*Interruptions*)

SHRI INDRAJIT GUPTA I am only saying one sentence There are many provisions and clauses which I, on behalf of my party also, can say, we consider to be objectionable

MR SPEAKER May I as a lawyer, tell you? Do not come to any conclusion abruptly

SHRI INDRAJIT GUPTA The basic principle of this Bill, as it has been announced, is to separate religion from politics And we fully support that principle But that does not mean that many things in this Bill will not have to be amended Many things will have to be amended In my opinion, many things will have to be removed from that Let the joint select Committee go into that

MR SPEAKER Do not go by the interpretation put on the constitution by some Members very intelligently You have to apply your mind

separately That is quite simple

SHRI INDRAJIT GUPTA No, no, that is not so Therefore, I think, it is not necessary that we should go on discussing (*Interruptions*)

SHRI SOMNATH CHATTERJEE Let us send it to Joint Select Committee

INDRAJIT GUPTA We want that there should be a proper discussion, a thorough discussion, of all the clauses- implications and everything else Therefore, for that the arrangement should be made through a Joint Select committee

That must be time-bound and it can be made time-bound or it can give its findings

MR SPEAKER We will come to that later

SHRI INDRAJIT GUPTA but, sir, there are many things in this which we do not agree with If you want us to go into all that just now, we can do it

MR SPEAKER No, not now

(*Interruptions*)

SHRI SOMNATH CHATTERJEE I would request the Minister to agree for select committee but within a time frame (*Interruptions*)

SHRI EBRAHIM SULAIMAN SAIT (Pannani) It affects me directly I am very sorry that the Government, while bringing the Bill, forgets that we Muslims are alive in this country A grave and dangerous Bill has been brought without consulting us Why did they not take us into confidence before bringing this Bill? This Bill has grave consequences you want to separate religion from politics but grew, you have crushed our rights Our constitutional rights and fundamental rights are crushed How can we live in this country then? You want to bring a Bill to separate religion from politics by all our fundamental and constitutional rights are crushed

[Sh. Ebrahim Sulaiman Sait]

Our friends may escape. I know that my friends from the BJP may escape. (*Interruption*) It is the Muslim League on which the first axe will fall. The first axe will fall on us. We work within the constitution. RSS may escape and the ban may be removed by high court or a tribunal but the Jamad-e-Islamia cannot escape. The axe will fall on me: it is injustice done to me, Sir. they should have taken me into confidence. I am with you protect the secular principles of this country. But they have not consulted me. (*Interruptions*) I want the Bill to go to a select committee: it must be consulted, a time-bound programme should be drawn. (*Interruptions*)

MR. SPEAKER: If this Bill is an important Bill, and if this Bill contains something which you want and something which you do not want, then let it be discussed in a proper manner and without applying your mind, do not express your views because people form an opinion on the expression of your views.

(*Interruptions*)

SHRI GUMAN MAL LODHA (PALI): Sir, I rise to challenge the legislative competence of this Bill. The point which I want to raise is under Rule 72. under the Constitution, as interpreted by Keshavanand- Bharti case which has been reiterated in AIR. 1973 SC, page 1461. In the apex court, honorable supreme Court has said that there are certain basic features of the constitution and no law can be made by parliament against the basic features of the constitution. I would like to refer only to the Relevant third point which has been given in the minority judgment by Sikhri Chief Justice., He said:

"The basic structure may be said to consist of the following features: The supremacy of the Constitution, republican and democratic form of Government."

Now I would have the rest of it. Therefore, the democratic form of Government. the parlia-

mentary democracy, the right of each citizen to contest the election to from a political party and to be in the Parliament if the people give a candidate is one of the basic features of the Constitution and any law made even by this august House would be against the legislative competence itself, I is well known that when the Constitution was framed, it was repeated said that under Article 366 the amendment power of the Constitution, which is known as the constituent power, is limited and there was a doing run controversy going into Bholaknath case, Sajjan singh case and other previous cases which I would not like to refer here now. But the law has been laid down by Keshavanand-Bharti case that holds good even today.

Now Sir, Your Honour gave heard various views of the various party leaders. The views of the largest opposition party, the BJP have been express by Shri Advani who has just now, given a very graphic description of the dangerous nature of the draconian law which is going to finish democracy in this country. similarly, Shri Chatterjee has his own objections. Shri George Fernandes also has given a very analytical and detailed description of the fundamental rights contained in article 14 and article 16 of our constitution and how they are a going to be tampered with.

SHRI SOMNATH CHATTERJEE: I have not objected to the introduction of the Bill Let me clarify.

SHRI GUMAN MAL LODHA: I know your objections. What I submit is that all the leaders of different parties including the Muslim League. Janata Dal, CPI and other parties, have mentioned here that this particular piece of legislation is draconian. This draconian legislation is being introduced here under the name and garb and false pretext of separating religion from politics.

I appeal to the hon. Members to kindly realise that the entire thrust of the Janata Dal in the name of caste, whether it be backward

castes, scheduled Castes or Scheduled Tribes, is going to be finished once this legislation is passed. Mandal and Kamandal, booth would go and the mandir would also go! And the Classless society of the Leftists too will not come into being.

MR. SPEAKER: Let it not be a regular speech please.

SHRI GUMAN MAL LODHA: I am summing up. I submit that Your Honour may see and examine the most basic features of our constitution. With the help of the proposed amendments of articles 102, 191, and insertion of new articles 28A and 35A, just with a single stroke of the pen, the recognition of the parties can be ended on the grounds that have been given in these sections. And the grounds, as per the views already expressed by various leaders here, do cover a large segment of the nation. It may also happen that expressing a view on minority appeasement may also be considered offensive. (*Interruptions*)

MR. SPEAKER: You are making a regular speech!

SHRI GUMAN MAL LODHA: I am just summing up Sir. I submit that It is the Kesavananda Bharati's case, which is the law of the day and only it should apply. These two legislation's which are against the basic structure of the constitution should not be accorded any legal sanction.

SHRI LOKANATH CHOUDHURY (Jagatsinghpur): sir, what should be the discussion at the stage of introduction?

MR. SPEAKER: That depends on the nature of the Bill.

SHRI GUMAN MAL LODHA: These two legislations should never be given legal sanction. The effort of the ruling party, which does not have enough courage to go to the people, is to get rid of the entire opposition with the help of these

two draconian legislations. Introduction of these two Bills ruin our constitution and therefore, permission should not be given for their introduction.

SHRI RAM NAIK (BOMBAY NORTH): Sir, I am opposing the introduction of the Bills basically for one reason. (*Interruptions*)

SHRI LOKANATH CHOUDHURY (Jagatsinghpur): Sir, so many Members' are speaking at this stage. In that case, everybody should be given an opportunity now.

SHRI RAM NAIK: We have given prior notices.

DR. KARTIKESWAR PATRA (Balasore): Hon Speaker has categorically stated in the House that only those who have prior notice to speak would be allowed. But Sir, you are allowing everybody

MR. SPEAKER: It is a very valid point of order. I will try to speak to you later.

SHRI RAM NAIK: Sir, this Bill has been brought with a view to delinking religion and politics. My objection is that we are not understanding the meaning of religion properly. If you see, there is a phrase Dhamchakra pravartnaya on your head. so also, if we go to Supreme Court, over the head of the Supreme court Judge we see the phrase Yoto Dharma Toto Jaya', what is the difference? It is a different concept and the concept of religion must be understood properly in correct perspective. This is my first point.

Secondly, this Bill is incomplete. You place see the annexure. Whenever a Bill is submitted, those sections which are sought to be amended, are expected to be included in the annexure.

If you see the Annexure, Sir, Article 182 and Article 191 are sought to be amended but those Articles have not been given. so, unless the Bill has been given in proper form it cannot be considered for introduction. On this technical

[Sh. Ram Naik]

point I oppose that this Bill should not be allowed to be introduced in this form, unless it is given in the proper form along with the sections which are sought to be amended.

SHRI P. G. NARAYANAN (Gobichettipalayam): Sir, please allow me to speak.

MR. SPEAKER: But, you have not given notice. All right, you may speak and then. I will give time to Shri Surya Narayan Yadav also.

SHRI P. G. NARAYANAN: Sir, my first objection is that before introducing a Bill of this kind, all the political parties have to be consulted but my party has not been consulted at all. secondly, I have my apprehension about certain clauses of the Bill. If such delicate and sensitive matters like language are used in the Bill then it can be misuse to scuttle the growth of a particular race or to ban a particular party on the grounds of race. Sp. this Bill needs a careful scrutiny. There is not need to pass this Bill in haste. I think this Bill should be sent to the Select Committee.

[Translation]

SHRI SURYA NARAYAN YADAV (SAHARSA): Mr Speaker, Sir, the intention of the Government is not to delink religion from politics but to curb fundamental rights of the masses of this country. Through this Bill, the Government is trying to mislead the people and it is an assault on their fundamental rights. I demand on behalf of the Janata Dal (A) to withdraw it. (Interruptions).

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL BALKRISHNA WANSNIK): what is this Janata Dal (A). (Interrup-

[English]

MR. SPEAKER: The young Member of your party is very active. Ask him not to be so very active. (Interruptions)

(Translation)

SHRI SURYA NARAYAN YADAV: I fully agree with Shri George Fernandes and Shri Advani and other leaders of the opposition that the Bill, be referred to the Select Committees. Do not curb the fundamental rights of the people. This is big demand.

S. B. CHAVAN : Mr. Speaker, Sir, the hon. Members are trying to interpret the provisions of the Bill in their own way. There are some hon. Members who have the ingenuity to find fault with almost every clause of the Bill and they try to extract a meaning which in fact is remotest from our idea.

The very simple proposition which is before the House is, we should ensure that there is no misuse of religion for political purpose. This is the basic concept of it and in order to achieve that what needs to be provided is sought to be incorporated in different clauses. I concede that there might be certain provisions which can be misconstrued and misused. I am not opposed to the idea of referring this Bill to a Joint Select Committee. Normally, I would have preferred the Standing Committee for the Home Ministry to go into this problem, but if Members from all sides agree that a Joint Select Committee may be appointed which may be able to report to the House within a fortnight so that this Bill can be enacted during this session only. I have no objection.

As regards the question whether the amendments in this Bill interfere with the basic features of the Constitution, these are matters which one cannot possibly dwell upon at the introduction stage. This issue is very complicated which only competent court can go into and take a view whether it does or it does not effect the basic features, the Joint Select Committee can go into every clause and if it has any misgivings about any provision, certainly it can correct the same.

But the basic idea is that religion should not be misused for political purposes. That is the only purpose of this bill

I do not think that at this stage I should say anything more. I would request the House to give me leave to introduce the Bill. (*Interruptions*)

SHRI RAM NAIK: What about my technical objection? I have raised a technical objection that the Bill is incomplete. (*Interruptions*)

MR. SPEAKER: If you want a ruling on that, then, my ruling is that, your technical objection is correct but it does not touch the heart and soul of the Bill. The article can be referred to, but it would have been better, if it had been given along with the Bill.

MR. SPEAKER: The question is:

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

*The motion was adopted.*

SHRI S. B. CHAVAN: I introduce the Bill.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Representation of the people Act, 1951."

*The motion was adopted*

SHRI S. B. CHAVAN: I introduce the Bill.

15.47hrs.

#### MATTER UNDER RULE 377

**(i) Need to redress the grievances of village Health Guides.**

[*English*]

DR. KARTIKESWAR PATRA (BALASORE): I would like to put forth the grievances of more than two lakh village Health Guides

(UHG's) working throughout the country. They are looking after motivation work for family planning as well as taking health care in the villages. They are paid very little remuneration for the task they are doing more than a decade. They may be appointed on a regular basis to help in family planning motivation work and also to record births and deaths and they may be given remuneration of Rs./300/- more per month.

I would request the Minister of Health and Family Welfare to redress the grievances of the village Health Guides of our country.

**(ii) Need to abolish sleeper class system in railways**

[*Translation*]

\* SHRI V.S. VIJAYARAGHAVAN (Palghat): The newly introduced system of sleeper class is causing a lot of difficulty to the railway passenger of Kerala. People have resorted to agitation on this issue. Either this system of Sleeper class should be totally abolished or more coaches should be introduced for theseasoned ticket holders as well as short distance passengers. The temporary arrangement introduced in some of the Express Trains is not going to solve the problem

15.48 hrs.

(SHRI SHARAD DIGHE *in the Chair*)

Therefore, I request the Central Government that keeping in view the special circumstances prevailing in Kerala, the suggestion made by the Kerala Government in this regard may be accepted.

**(iii) Need to accord sanction to the proposal of the Government of Uttar Pradesh for providing adequate facilities to the tourists in Garhwal region.**

[*Translation*]

SHRI MANVENDRA SHAH (Tehri Garhwal): Mr. Chairman, Sir, the tourists have to face a lot of difficulties in their journey in the Garhwal region. There is need to provide facilities